

# STRENGTHENING THE MIDDLE CLASS: ENSURING EQUAL PAY FOR WOMEN

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## HEARING

BEFORE THE  
COMMITTEE ON  
EDUCATION AND LABOR  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED TENTH CONGRESS  
FIRST SESSION

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HEARING HELD IN WASHINGTON, DC, APRIL 24, 2007

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## **STRENGTHENING THE MIDDLE CLASS: ENSURING EQUAL PAY FOR WOMEN**

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**Tuesday, April 24, 2007  
U.S. House of Representatives  
Committee on Education and Labor  
Washington, DC**

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The committee met, pursuant to call, at 9:35 a.m., in Room 2175, Rayburn House Office Building, Hon. George Miller [chairman of the committee] presiding.

Present: Representatives Miller, Kildee, Payne, Andrews, Scott, Woolsey, Hinojosa, Tierney, Kucinich, Wu, Holt, Davis of California, Bishop of New York, Sarbanes, Sestak, Loeb sack, Hirono, Clarke, Courtney, Shea-Porter, McKeon, Petri, Platts, Wilson, Kline, Fortuño, Boustany, Foxx, Kuhl, and Walberg.

Staff Present: Mark Zuckerman, Staff Director; Alex Nock, Deputy Staff Director; Brian Kennedy, General Counsel; Jeffrey Hancuff, Staff Assistant, Labor; Michael Gaffin, Staff Assistant, Labor; Lynn Dondis, Policy Advisor for Subcommittee on Workforce Protections; Jody Calemine, Labor Policy Deputy Director; Jordan Barab, Health/Safety Professional; Thomas Kiley, Communications Director; Megan O'Reilly, Labor Policy Advisor; Rachel Racusen, Deputy Communications Director; Michele Varnhagen, Labor Policy Director, Aaron Albright, Press Secretary; Tylease Alli, Hearing Clerk; Victor Klatt, Minority Staff Director; Robert Borden, Minority General Counsel; Steve Forde, Minority Communications Director; Ed Gilroy, Minority Director of Workforce Policy; Rob Gregg, Minority Legislative Assistant; Jim Paretti, Minority Workforce Policy Counsel; Molly McLaughlin Salmi, Minority Deputy Director of Workforce Policy; and Linda Stevens, Minority Chief Clerk/Assistant to the General Counsel.

Chairman MILLER. The Committee on Education and Labor will come to order for a hearing on ensuring equal pay for women.

At the outset of this congressional session, we made it clear that the interest of this committee was in growing and in strengthening the middle class, and as we know, the participation of women in the workforce is a major component of that, but also the idea that women would be paid fairly and equally is also a component of that, so it is with that in mind that we conduct this hearing.

Since the signing of the Equal Pay Act over 40 years ago, tremendous progress has been made by women in the workplace. Women are leaders in business, government and academia. For the first time in history, a woman is serving as Speaker of the House

of Representatives. Yet, despite the progress that women have made, they continue to be held back by wage discrimination. Today is National Equal Pay Day. Each year, equal pay day signifies the number of days into a new year that women have to work before earning what men earn by December 31st. It is appropriate that we hold this hearing today to examine the issue of gender pay inequality in this country and consider the impacts that the wage discrimination not only has had on women but on families, communities and the Nation as a whole.

This issue is one of basic fairness. Women should receive equal pay for equal work. Yet, research clearly demonstrates that women earn less than men for equal work. Yesterday, the Association of the University Women unveiled their study on pay for college graduates. We will hear from one of today's witnesses, Dr. Catherine Hill, about this study in more detail, but I want to know its key conclusions. 1 year out of college, women earn approximately 80 percent of what men earn. 10 years out of college, women fall even further behind, earning only 69 percent as much as men earn. This disparity in wages exists across all occupations and is well-documented at the educational levels. In 2005, the median weekly wages earned by women physicians were just 61 percent of the median weekly wages of their male colleagues. Women in sales-related occupations earned only about 63 percent of the median weekly wages of men in the equivalent positions. This pay also means women are less likely to have retirement security. Even when women have pensions, the earning differences between women and their male colleagues lead to larger gender gaps in the pension amounts.

This committee has spent a considerable amount of time in the early months of the 110th Congress examining the status of America's middle class and pursuing policies to strengthen the middle class. Compared to a generation ago, families have lost 13-1/2 weeks of full-time work to the U.S. economy.

While families put in more hours at work than their parents did, their inflation adjusted incomes are only minimally higher. In fact, when one adjusts for the additional hours worked, median living standards are actually lower. Nearly two-thirds of parents say they do not have enough time with their children, and nearly half of all of the employees with families report conflicts between their jobs and their families. On average, women's wages constitute more than one-third of their family's income. Paying women an equal salary for equal work is immediate means to making their families more secure. More than 3.5 million single mothers live in poverty. Because of pay inequality, single mothers are twice as likely to live below the Federal poverty line as single fathers. Equal pay would serve as an important antidote to poverty.

Gender pay discrimination clearly has far-reaching implications for America's economy and the middle class. That is why our hearing today is so very important, and I want to thank, at the outset, Congresswoman Rosa DeLauro for her tireless advocacy on this issue, and Representative Holmes, for their work on this and for sharing that with the committee today, and I look forward to hearing your testimony about the legislation, the Paycheck Fairness Act, of which I am a proud cosponsor.

The Paycheck Fairness Act would extend the Equal Pay Act and would take affirmative steps to eliminate gender-based wage discrimination by enhancing enforcement, increasing training research and education outreach. We will hear testimony from the witnesses in a moment.

Now I would like to recognize Mr. McKeon, the senior Democrat on the committee—oh, senior Republican on the committee. I am getting closer.

Mr. McKEON. Oh, boy.

Chairman MILLER. Buck wants to go out and come back in, I think.

Mr. McKEON. Well, on that note, thank you, Chairman Miller.

Chairman MILLER. Can I get you a glass of water?

Mr. McKEON. I do not think I would switch if I could be the senior Democrat on the committee.

Chairman MILLER. No, you would not want that.

Mr. McKEON. Thank you, Chairman Miller.

This committee plays a key role in shaping policies that impact the quality of life for all Americans of all ages, of all incomes and, yes, of either gender. I am grateful to have four of these Americans with us today, ready to provide their testimony on the second panel as they give us their input on the state of our consistently growing economy and its impact on men and women alike.

I would also like to extend a special welcome to Congresswoman Rosa DeLauro and Delegate Eleanor Holmes Norton for joining us today.

Mr. Chairman, a few months ago when we convened our first hearing on the middle class and our Nation's economy, I told our colleagues that I have never been one to engage in class warfare, and I was not about to start for the purposes of that hearing. I have always found that, while pitting one group against another often makes for good politics, it rarely makes for good policy. I believe the same can be said for the issue before us today. This is an issue that can become very emotionally charged, and if we are not careful, if we let that occur, we can do significant damage in many ways. We could inadvertently punish one group of workers while purportedly attempting to help another.

Our efforts could lead to unnecessary and frivolous litigation that could place excessive burdens on employers and employees alike or we may simply lead ourselves toward Federal policy that could be viewed as too heavy handed or intrusive into the lives of working men and women. In short, before we approach this issue, we should look to the time-honored mantra that guides, or at least should guide so much of our work here in Washington, "do no harm."

Through the Equal Pay Act which amended the Fair Labor Standards Act and the Civil Rights Act, Federal law currently prohibits an employer from paying an employee different wages or, otherwise, discriminating in any term or condition of employment on the basis of gender. Does that mean that there is no sexism or any other set of circumstances that could place men and women on anything other than a level footing in a given workplace? Certainly not. However, the fact is, under current law, there are remedies for violations that show clear gender discrimination.

Under the Equal Pay Act, for example, the person found having been discriminated against can obtain backpay for any wages unlawfully withheld as a result of pay inequality and twice that amount for a willful violation, and violations of the Civil Rights Act allow for jury trials and punitive damages for victims of intentional sex discrimination included in wage-related cases.

I will look forward to hearing from all of our witnesses today about how these laws currently are being applied to modern day cases of wage inequality. I will also look forward to hearing from our witnesses about the disparate views among experts on the scope of this potential problem.

Congresswoman DeLauro, data you cite shows that women earn 80 cents on the dollar to men. At points, the American Academy of the University Women Education Foundation cites the number at 95 cents on the dollar when controlling for other factors.

A witness on our second panel looks at the raw 2006 data and cites 88 cents on the dollar among full-time workers and notes other studies that show that, the closer you look at the numbers, the more it narrows to nearly a statistically insignificant comparison.

In short, the facts with regard to this matter are all over the map, and I am pleased we will have a chance to take a closer look at the reasons why during our time together this morning. It goes without saying that no one in this room approves of discrimination in any form, including discrimination based on gender. As a civilized society, we simply should not tolerate it. I have three daughters and three sons—I do not dare discriminate—and we now have more grandsons than granddaughters, but it is very close, and it used to be a lot more granddaughters than grandsons, so I do not know how that all works out.

Chairman MILLER. If you go to 35, I think it will start to even out. He is at 27 now.

Mr. MCKEON. 28 and one coming, so it is very close.

At the same time, I cannot help but think back to that simple phrase of “do no harm.” As we hear from our witnesses today and as we consider significant and substantial changes to Federal law, I hope we keep in mind and recognize the very clear, very strong anti-gender discrimination laws we already have on the books.

Once again, thank you, Mr. Chairman.

Chairman MILLER. Thank you.

Without objection, all members will have 14 days to submit additional material and testimony for the hearing record, and at this point, I would like to submit a statement for the record from our Speaker, Congresswoman Nancy Pelosi. If there is no objection, it will be made part of the record.

[The information follows:]

**Prepared Statement of Hon. Nancy Pelosi, Speaker,  
U.S. House of Representatives**

I want to thank the Education and Labor Committee Chairman George Miller for convening this critical hearing today on Strengthening the Middle Class: Ensuring Equal Pay for Women.

I also want to recognize the leadership of Congresswoman Rosa DeLauro, a champion for equal pay in the Congress, who for 10 years has been introducing the Pay-check Fairness Act.



Over the last four decades, we have made strides in closing the wage gap between women and men. But it has not been enough. Working women now earn about 77 cents for every dollar earned by men. The earnings for African-American women are 68 percent of men's earnings; the earnings of Hispanic women are 57 percent of men's earnings; and the earnings of Asian-American women are 88 percent of men's earnings.

Today, almost four full months into the new year, women throughout the country mark the date to which they have worked just so their wages equal the same amount paid to men in the previous year. That is because it takes the average woman 16 months to earn what men earn in one calendar year. This is not just and does not reflect appropriately the contributions they make.

For many, closing the wage gap is not just a matter of equity, but survival. Many low-wage women workers are the source of sole support for their families. Economic equity and self-sufficiency are essential to achieving the American dream. It is outrageous that women begin the quest to achieve that dream already at a deficit.

Working women and their families deserve equal pay for equal work and I am proud that the Education and Labor Committee, led by Chairman Miller are addressing this issue today.

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[The prepared statement of Mr. Altmire follows]:

**Prepared Statement of Hon. Jason Altmire, a Representative in Congress  
From the State of Pennsylvania**

Thank you, Mr. Chairman, for holding this hearing today on ensuring equal pay for women.

I would like to extend a warm welcome to all of the witnesses, and in particular to my distinguished colleague Representative DeLauro. I appreciate the time you took to be here today and look forward to your testimony.

Currently, women make 77 cents for every dollar that is earned by a man. Some of this disparity is a result of different professional choices generally made by men and women. However, even when accounting for all of these factors women still only make somewhere between 90 and 95 cents for every dollar that men make.

This gap is not only unfair, but it also exacerbates societal ills. Single women, who are the chief income earners for their household, have a 36 percent chance of living in poverty. Older women who have worked are less likely to receive pension benefits and receive fewer benefits when they do have one. If women received equal pay, then fewer of the households they lead would be in poverty and they would have greater economic security later in life.

Thank you again, Mr. Chairman, for holding this hearing. I yield back the balance of my time.

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[The prepared statement of Ms. Hirono follows:]

**Prepared Statement of Hon. Mazie K. Hirono, a Representative in Congress  
From the State of Hawaii**

Mr. Chairman, thank you for providing this Committee the opportunity to hold the first-ever hearing in the U.S. House of Representatives on the issue of pay equity for men and women. To hold this hearing on Equal Pay Day underscores the challenge before us, as today signifies the number of days into a new year that women have to work in order to equal the wages paid to men in the previous year.

While improvements have been made to address gender discrimination in the workplace, gender-based wage discrimination remains a problem for women in our workforce. Women earn 77 cents for every dollar earned by men. This wage disparity costs women anywhere from \$400,000 to \$2 million over a lifetime. The gap exists from the beginning of a woman's work life and grows wider as she ages.

A newly published study, conducted by the American Association of University Women, has found that women who are only one year out of college make 80 percent of what men earn and ten years later make only 69 percent. I look forward to hearing more details on this study from one of its authors, Dr. Catherine Hill.

I am proud to cosponsor H.R. 1338, the Paycheck Fairness Act, which was introduced by Congresswoman Rosa DeLauro, another of our witnesses here this morning. H.R. 1338 takes affirmative steps to eliminate gender-based wage discrimination and ensure that women earn what men earn for doing the same job. There is one key provision of the bill that I would like to highlight.

H.R. 1338 would impose a stricter burden on an employer who wishes to affirmatively defend its actions by citing non-gender reasons for the difference in wages. Currently, under the Equal Pay Act of 1963, once a prima facie case has been established by the employee, the burden shifts to the employer who can justify the pay differential by citing a differential based on "any factor other than sex."

This affirmative defense has been used as a broad catch-all exception that embraces an almost limitless number of factors, including: seniority systems, merit systems, or systems that measure earnings by quality or quantity of production. There is a reasonable need to close this loophole in the Equal Pay Act and give the law "teeth" for adequate enforcement.

Mr. Chairman, thank you again for holding this hearing on the gender pay gap.

Chairman MILLER. As our first two witnesses today, we are honored to have Congresswoman Rosa DeLauro and Congresswoman Eleanor Holmes Norton.

Rosa DeLauro has represented Connecticut's 3rd District since 1990. She currently serves as the cochair of the House Steering and Policy Committee, and she is a member of the House Appropriations Committee and chairs the House's Agriculture and FDA Appropriations Subcommittee. Congresswoman DeLauro first introduced the Paycheck Fairness Act nearly 10 years ago, and has actively sought to end the wage gap between men and women. Congresswoman DeLauro earned her bachelor's degree with honors from Marymount College and a master's degree in international politics from Columbia University.

Eleanor Holmes Norton is in her ninth term as a congresswoman for the District of Columbia. She serves on the Committee on Homeland Security, the Government Reform Committee, and the Transportation Infrastructure Committee. Prior to serving in Congress, Congresswoman Holmes Norton was named by President Jimmy Carter as the first woman to chair the Equal Employment Opportunity Commission. Congresswoman Holmes Norton received her bachelor's degree from Antioch College, and she earned a law degree and a master's degree from Yale University, and has been very active in the issue of D.C. voting rights as we all are so aware of them with their legislation last week.

Thank you very much, both of you, for being here.

Rosa, we will start with you.

**STATEMENT OF THE HON. ROSA DeLAURO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT**

Ms. DELAURO. Thank you very much, Chairman Miller. I really say "thank you" to you for the opportunity to be here this morning and to you, Republican Ranking Member Mr. McKeon.

I might just say to you that your comment was "do no harm." we say "do the right thing." I would also be mindful of the statistics on the amount of money that women are paid on the dollar from the Department of Labor, and the last I saw, Secretary Chou was heading up that department, but the Department of Labor statistics have said that women are paid 77 cents on the dollar, so that is your own Department of Labor.

I want to thank you, Chairman Miller and Ranking Member McKeon and the House members who are here today, for stepping up and holding what is the first-ever hearing in the House of Representatives on pay equity, and I am honored to be here with my colleague, Eleanor Holmes Norton. As Chairman Miller pointed

out, she has a distinguished career, and there is no one who holds a candle to Eleanor Holmes Norton on bringing equity to men, to women, and to families in this Nation.

The very fact that it has taken nearly 10 years and for this institution to take so long to confront our Nation's wage gap I think is a sad illustration of how far we still have to go; it is long overdue, but the fact is that we are here today, and it is a welcomed change. Your strong support represents the new priorities and the new direction, Chairman Miller, of the 110th Congress. How meaningful it is as well that we have gathered here, and we hold this hearing this morning on this particular day.

As you know, every April, advocates for equal pay mark the day on which the wages paid to American women catch up to the wages paid to men from the previous year. This year, that day is April 24th. It is time to look at the calendar, and more importantly, it is time to look at our own values as a Nation. To be sure, women have made great progress since the enactment of the Equal Pay Act more than 40 years ago. Today, nearly half of the workforce is made up of women. Women are more likely to have an advanced degree than men, and there are more than 6 million businesses in America owned by women, but for all of those gains, a significant wage gap exists, and it is my view that we have a morale obligation to understand and to explain the reasons behind that gap, and we must continue working tirelessly until we have closed it entirely.

According to the General Accountability Office, the GAO, the weekly earnings of full-time working women were about three-fourths of men's during 2001. The report was prepared from a study of earnings history of over 9,300 Americans for the last 18 years. Even accounting for factors such as occupation, industry, race, marital status, and job tenure, the GAO reports working women today earn an average of 80 cents for every dollar earned by their male counterparts.

The issue of pay equity goes to the heart of what matters to working women today. It is about ensuring that women who work hard and productively and carry a full range of family responsibilities are paid at a rate that they are entitled to. Pay equity is not a woman's issue; it is a family issue, and today's world economic reality and economic insecurity mandate two-earner families where possible. In many families, the inequity of the pay gap falls hardest on our children because so many working women are the primary breadwinners in their households. In fact, nearly two-thirds of working women provide half or more of their household income, and 41 percent of women are their family's sole source of income.

I would like to just give you a definition these days of who are the unmarried women in this Nation and their economic insecurity. They are single. They are widowed. They are divorced. They are separated. They are people who are at the margins of our economy, and pay equity is uppermost on their minds, and shortchanging women of their due shortchanges their entire families. It undermines their dreams. It limits their hopes, and closing that wage gap has got to be an integral part of any profamily agenda.

We are going to hear this morning from the American Academy of University Women. Even education does not significantly close

the wage gap. A typical college educated woman, working full-time, earned \$9,500 a year less than a college educated man, sending the message that, no matter how hard women work or how advanced their degrees, they will not be compensated fairly.

Congressman McKeon, you talked about your daughters. We tell our young men and women today—our sons and our daughters—go to school; get an education; you will have a better future; you will be able to realize your aspirations. Well, we need to have our young women realize their aspirations as well as our young men, and your three daughters need to be compensated, and your granddaughters need to be compensated at what rate that they are entitled to for the job that they will do. No one should be forced to consider a trade-off between a full wage, a family life and a good job, and that is exactly what is happening. Men with children appear to get an earnings boost while women get just the opposite. According to the GAO, men with children earn about 2 percent more than men without children while women with children earn about 2-1/2-percent less than women without children.

We are going to hear this morning from a Wal-Mart employee, and if you look nationwide, the only word to describe what is happening in their stores is discrimination. Women hold 70 percent of sales associate positions at the retailer but less than a third of the management jobs, and as Dedra Farmer will tell us at the subcommittee today, Wal-Mart systematically pays less to its women employees, and perhaps it is no coincidence that Wal-Mart faces the largest class action lawsuit in history for these practices with 1.6 million women in all filing suit.

This is one reason or perhaps it is 1.6 million reasons that I have reintroduced the Paycheck Fairness Act. Yes, it is 10 years, and this is the first hearing that we have been able to have on this issue. In the Senate, Senator Clinton has introduced this legislation to help address this problem and to give teeth to the Equal Pay Act. The marketplace alone will not correct this injustice, and that is why we need a legislative solution.

The bill would require the Department of Labor to enhance outreach and training efforts, to work with employers to eliminate pay disparities. It would prohibit employers from retaliating against employees who share salary information with their coworkers and stiffen penalties for employers in violation of the Equal Pay Act. It would require the Department of Labor to resume collecting and disseminating information about women workers and create a new grant program that would help strengthen women's salary negotiation skills.

Pay equity is not just another budget item to be bargained for or bargained away. It is an integral piece of the larger effort we are all part of, an effort to help women gain economic security for themselves and for their families. It is a common-sense issue. It affects all women and their families. By erasing the gap in the labor market, we can help families gain the resources that they need to ensure their children have access to a better future in the 21st century. We should not underestimate the power of one big idea whose time has come, and today, I look around, and I think our time has come. Our time is now. I know that you all will continue to fight for what is right and for the right thing to do.

I thank you very much, Mr. Chairman, and I thank you, Ranking Member McKeon.

Chairman MILLER. Thank you very much.  
[The statement of Ms. DeLauro follows:]

**Prepared Statement of Hon. Rosa L. DeLauro, a Representative in Congress  
From the State of Connecticut**

Chairman Miller, thank you very much for the opportunity to testify before the Committee on Education and Labor this morning.

I want to thank you very much for stepping up and holding what is the first-ever hearing in the House of Representatives on equal pay. The very fact that it has taken this institution so long to confront our nation's wage gap is a sad illustration of how far we still have to go.

It is long overdue, but, the fact that we are here today is a welcome change. Your strong support represents the new priorities and new direction of the 110th Congress. Thank you Mr. Chairman.

How meaningful it is, as well, that we have gathered here you hold this hearing on this particular day. As you know, every April, advocates for equal pay mark the day on which the wages paid to American women "catch up" to the wages paid to men from the previous year. This year that day is April 24th. It is time to look at the calendar and time to look at our own values as a nation.

To be sure, women have made great progress since the enactment of the Fair Pay Act more than 40 years ago. Today, nearly half the workforce is made up of women. Women are more likely to have an advanced degree than men. And there are more than 6 million businesses in America are owned by women.

But for all those gains, a significant wage gap is still with us, and that gap constitutes nothing less than an ongoing assault on women's economic freedom. We have a moral obligation to understand and explain the reasons behind that gap. And we must continue working tirelessly until we have closed it entirely.

According to the General Accountability Office (GAO) the weekly earnings of full-time working women were about three-fourths of men's during 2001.

The report was prepared from a study of the earnings history of over 9,300 Americans for the last 18 years. Even accounting for factors such as occupation, industry, race, marital status and job tenure, the GAO reports, working women today earn an average of 80 cents for every dollar earned by their male counterparts.

The issue of pay equity goes to the heart of what matters to working women. It is about ensuring that women who work hard and productively and carry a full range of family responsibilities are paid at a rate they are entitled. I often say pay equity is not a women's issue. It is a family issue.

In today's world, economic reality and economic insecurity mandate two-earner families, where possible. In many families, the inequity of the pay gap falls hardest upon children, because so many working women are the primary breadwinners in their households. In fact, nearly two-thirds of working women provide half or more of their household income, and 41 percent of women are their families' sole source of income.

Short-changing women of their due, short-changes their entire families, undermines their dreams, and limits their hopes. Closing the wage gap must be an integral part of any pro family agenda.

As we will hear from American Academy of University Women today, even education does not significantly close the wage gap. A typical college-educated woman working full-time earned \$9,500 a year less than a college-educated man, sending the message that no matter how hard women work or how advanced their degree, they will not be compensated fairly.

No one should be forced to consider a trade-off between a full wage, a family life, and a good job. Yet that is what is happening. Men with children appear to get an earnings boost, while women get just the opposite. According to the GAO, men with children earn about 2 percent more than men without children, while women with children earn about 2.5 percent less than women without children.

We will also be hearing from a former Wal-Mart employee, and if you look nationwide, the only word to describe what is happening in their stores is: discrimination. Women hold 70 percent of sales associate positions at the retailer, but less than a third of management jobs. Perhaps it is no coincidence that Wal-Mart faces the largest class action lawsuit in history for these practices, with 1.6 million women in all filing suit.

That is one reason—or perhaps it is 1.6 million reasons—I have reintroduced The Paycheck Fairness Act, together with Senator Hillary Rodham Clinton, to help ad-

dress this problem and give teeth to the Equal Pay Act. The marketplace alone will not correct this injustice—that is why we need a legislative solution.

The bill would require the Department of Labor to enhance outreach and training efforts to work with employers to eliminate pay disparities. It would prohibit employers from retaliating against employees who share salary information with their co-workers and stiffen penalties for employers in violation of the Equal Pay Act. And it would require the Department of Labor to resume collecting and disseminating information about women workers and create a new grant program that would help strengthen women's salary negotiation skills.

Pay equity is not just another budget item to be bargained for, or bargained away. It is an integral piece of the larger effort we are all part of—an effort to help women gain economic security for themselves and their families.

This is a common sense issue that affects all women and their families. By erasing this gap in the labor market we can help families gain the resources they need to ensure their children have access to a better future in the 21st century.

We should not underestimate the power of one big idea whose time has come. And today, I look around and I think: our time has come. Our time is now. I know you will all continue to fight for what is right.

Thank you Mr. Chairman and Ranking Member McKeon, I look forward to your questions.

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Chairman MILLER. Eleanor.

**STATEMENT OF THE HON. ELEANOR HOLMES NORTON, A  
DELEGATE IN CONGRESS FROM THE DISTRICT OF COLUMBIA**

Ms. NORTON. Thank you, Mr. Chairman. I thank you, personally, for giving the Equal Pay Act the first attention it has gotten since the Act was passed in 1963.

In answer to my colleague who came to Congress in the same year I did, I can only tell you that the DeLauro determination is well-known in this House, but when it has come to the Paycheck Fairness Act, there has been nothing like her zeal each and every year against the odds. Usually, Rosa gathers us all to have a press conference with the Senate on this day because that is the best we can do. So I cannot tell you what this must mean to Rosa to have the first hearing, and it means the very same to her now 70 or so cosponsors.

Mr. Chairman, I hope that we do not get lost in the usual argument between how much disparity there is. I wonder if there is anybody on the panel who would say there is no disparity. I would ask you to concentrate on this, really, quite modest bill because this bill simply deals with updating a statute which, I have to say to you, has fallen into virtual disuse because its remedies bespeak another era. This was the first of the great civil rights statutes to be passed that had a remedy in it at all, and it is creaky and it shows.

I was elated when, as I became chair of the Equal Employment Opportunity Commission, President Carter passed an historic civil rights reorganization bill with Title VII, which the Agency already had the EPA, the ADEA. The ADA had not passed yet. The whole point was to bring all of the job discrimination statutes to one place. We paid special attention to the EPA because it was coming from the Labor Department, and we wanted to make sure, and women wanted to make sure that there was nothing lost in the transfer, and I am going to offer some statistics today that will show that wherever you are on the question of disparities, that I think there will be a bipartisan agreement that this statute is due for updating.

Frankly, the civil rights statutes, themselves, Mr. Chairman, have not been updated since the 1991 Civil Rights Act, and that occurred because the Supreme Court issued a decision that left women with fewer rights to address basic job discrimination than minorities, and Congress passed this historic Act. I want to say to you, Mr. Chairman, that I will be introducing a bill that has long been sought by Federal employees who are second class people. When it comes to job discrimination, their own complaints are essentially reviewed and investigated by the Government, itself. It is as if you filed a suit against PEPCO or Microsoft, and they said, "Fine. Let me see if I have committed discrimination," but at least the job discrimination statutes have more or less kept pace with the times largely because of when they were passed.

I am going to be introducing another bill today, Equal Pay Day, called the Fair Pay Act, which Senator Harkin and I have long introduced. It is a bill that has to do with sex segregation. It is not a bill for today. The bill for today is to update a bill which had strong bipartisan support from the beginning, and there is no reason it will not have it today when we simply bring it into the 21st century. It is vitally important. It is like an old lady, Mr. Chairman, if you please. The average woman does not even think about the EPA because she does not hear anything about the EPA. You hear about Title VII. You hear about the age discrimination statute. You do not even hear the words "EPA" in the enforcement sense, and I want to say a word before and after on enforcement.

When I was at the EEOC during the Carter administration, every year, there were hundreds of EPA suits. As the 1980s progressed, there was not a decline, a precipitous decline. Now, where have we come to now? Mr. Chairman, it would be awfully important if the committee could find out where we are now because this is how the EEOC reports EPA suits.

From 1979 to 2003, 364 filed. Well, you know, that is worth about 24 a year. Why do they group all of these years together? I can tell you they include my years in that. I am talking about hundreds of cases filed per year. Why don't we have a breakout? Well, we do have a breakout year by year, but here is what the breakout says. Equal Pay Act charges includes concurrent charges with Title VII, ADEA and ADA. What that tells you is that everybody throws in an EPA count, but they are essentially relying not on the EPA; at least I do not think so, and if they were, I think the agency would love to tell us about it. So the way in which they keep record of the statute bespeaks how the statute is viewed even by the agency.

Why do women not turn to something called the Equal Pay Act which was passed first and foremost for them? It obviously applies to men, too. Because, if they bother to look when they do not hear anything about the statute, they will learn or do learn that it is too hard and too little of a return for job discrimination. There are other aspects of job discrimination—there is compensatory damages, punitive damages—and I want to say to the committee that, if you look at this bill, it is simply about updating the procedures of the EPA so that they match the procedures of other job discrimination statutes. Why would we want to leave women in an invidi-

ously poor position relative to other statutes that this Congress, itself, has passed—ADEA, Title VII and the like?

I remind the committee that the damage situation is much like the situation you found with the Employee Free Choice Act, that when you say you can get backpay, what you have said to employers is the cost of doing business is an occasional backpay suit. Employers long ago learned how to build backpay into the cost of doing business, and therefore, it acts as no deterrent whatsoever, and the EPA only has backpay as a remedy. Why bother with the Equal Pay Act, women?

Let me just go through a few other ways in which this is an old-fashioned statute. Because Congress stepped up in 1963 before the 1964 Act, this statute does not have the normal class act remedies because that was passed afterwards, so it is much harder to get a class. Now imagine in the 21st century a statute where, in order to be a member of the class, you have to opt in rather than automatically be in the class as with class actions in every other kind of statute we pass.

On retaliation, one of the most important parts of Title VII is that it has made it possible for people to have the gumption to sue in the first place. There are employers who know that there is nothing in the Act that keeps you from barring employees from sharing information about wages, so that is a good way to keep suits from happening against you. I do not think there is any Member of Congress who would want that to be the situation for women today, wherever you are on disparities.

The Act bespeaks of another period. At least for some courts, that means that if you are claiming an Equal Pay Act violation, you have to compare men and women in the same, quote, “establishment.” Some courts have read that to mean, if you have a facility all over the country, as most large employers do, you cannot compare nationwide. You have got to look at the facility in the District of Columbia or in New Haven, Connecticut, and see if there is any disparity there. At least some courts have so held.

Finally, the so-called “BFOQ,” which becomes the great pretext. If the employer can cite a factor other than sex for why the employer has paid the employee less, then fine. If that is not a loophole for pretext, I have never seen one, and the statute tightens that by requiring the employer to seek an alternative practice if one provides an equal business reason without any loss to the employer.

I have gone through these sections of the statute to illustrate what I think is a basis for a bipartisan agreement on this bill, and I thank you, Mr. Chairman, for giving this bill your attention on this day, Equal Pay Day.

Chairman MILLER. Well, thank you very much, and thank you to both of you, and I am honored and pleased that the committee is able to provide this forum and to work with you on this legislation.

I think a compelling case is being made that this is absolutely integral to the strengthening of individuals’ abilities to provide for themselves and to provide for their families, and I have never been one to believe that you can build a solid community on the backs of very poor people, and when you have deliberative policies to keep people poor, we have got to reject those.



You know, the argument—and you have both stated it. The idea whether the gap is 20 percent, 15 percent or 3 percent of—I was looking at the Speaker's statement. She often reminds us, what is the opportunity cost, and when the penalty is backpay or in what would be an extreme case you might get double that pay, the opportunity costs in terms of contributing to your pension; the opportunity costs in perhaps having health insurance or better health insurance or having the coverage for your spouse or your children as opposed to not being able to do it. You know, this is sort of the miracle of compounded interest that people always tell us about.

If you are really responsible and you save and you do all of these things, the miracle of compounded interest will take care of you—it will also undo you—and we are in the middle of a series of pension hearings here where a 1-percent additional fee can take down your pension over 20 years about 17-18 percent. Over 30 years, it can really undo your ability to retire. Well, if you are unable to contribute to your pension over a period of years, you are getting undone by the failure to be able to participate in that miracle of compounded interest.

So the penalty for people not getting equal pay is far beyond that paycheck, and we have to understand the repercussions of that in our communities. As a Nation, we tell people that they should save more. They have got to start their 401(k)s. They have got to do these things. Well, it is tough, you know. Everybody in the room can look around and say, "What would I do with a 15-percent reduction of my pay?" all of those things would become more difficult, and so this is not as simple as what that amount is, and obviously, it will vary in different places, but it is a very, very important issue with respect to the economic health of individuals, families and our communities.

I know you are both busy. I would like to ask if there is a member—I would like to recognize Mr. McKeon, but then if there is a member of the committee or two who have questions, if you have time, we would like to do that.

Mr. McKeon.

Mr. McKEON. I do not have any questions.

Chairman MILLER. Okay.

Are there members here who have questions?

Lynn Woolsey.

Ms. WOOLSEY. Mr. Chairman, I would just like to make a comment and thank these two wonderful women up here in front of us.

When I was driving in this morning, because there is a lot on television about this being Equal Pay Day, I was thinking what if—well, first, I was thinking how lucky that I do not have to compete with you guys for my salary because that is all we would be talking about around here, but then when I sat down here, I realized that probably the women in the House would be in very good shape because I think we would be earning more than you because these two women would be leading us. So be glad that we all get paid the same thing here in the Congress.

But thank you for your leadership, and let us get going with this legislation.

Chairman MILLER. Anyone else?

Ms. Shea-Porter.

Ms. SHEA-PORTER. Thank you, Mr. Chairman.

Thank you for being here.

I was speaking to a group of mostly women volunteers at a university a few weeks ago, and they were involved in social work activities, and I said, "Please stay engaged. We need you." on the way home, I started thinking, "Was that fair for me to say?" because I know what they would be earning. Then, the other day, I looked at some statistics, and they said that, of the people coming out of college right now, the lowest paid will be the social workers; they will receive half of what most will receive, and I felt a stab of guilt and remorse that I had asked them to stay in the field and also some anger, and I know that this particular bill, I believe, does not address that problem, that issue, right?

Can you speak to that? What do we say to these young people? Can we justify not paying people who are professional, who care, who choose a profession that helps this country, and we do not pay them?

Ms. DELAURO. I think that Councilman Holmes Norton referenced that issue, and her legislation—the Fair Pay Act and comparable legislation in the Senate with Senator Harkin—essentially does, in fact, address the issue of, you know, segregated populations and what people are making in this regard.

The Paycheck Fairness Act is a step to move forward on enforcing the laws that are currently existing in the Equal Pay Act and to bring some opportunity through that venue to be able to move to do it. I think you make the relevant point of what we do about that. It is not the subject of this hearing, but it ought to be the subject of a discussion of how we pay our people who sometimes have the most important jobs of raising our children and doing other things, and it is my view this is because that work is undervalued; this is an issue of values, and I think that it matters for us to have that conversation.

Eleanor.

Ms. NORTON. Well, you raised the problem that the country is not yet over the problem of sex segregation in the workforce. When you said "social workers," I thought you were going to say "teachers."

Ms. SHEA-PORTER. Teachers, too.

Ms. NORTON. This committee would have jurisdiction over them both, and this is difficult in a market economy because the argument will be made, well, you know, they all want to do that, and so they drive their own wages down.

What you then have—I do not know—is a man and a woman get out of college together. I will tell you something that is not unusual. Let us say they have been to junior college, and he goes on to be a probation officer, and she goes on to be a social worker. He is going to make more money than she is going to make at most places. Now, I do not think—excuse me—that there is a dime's worth of difference between the two except that the social workers who deal with foster children, the most troubled families have the worst turnover in the United States. That is the big burnout occupation.

Sure, probation officers deal with people who can present some danger. They deal with people who have been troubled. They are

usually not dealing with their troubled families; they are dealing person to person, but since the job has normally been held by men, the gender has essentially set the wage.

My legislation would try to get beyond this but in keeping with the market system because it would say you would have to show that the job you are doing in your workplace is comparable in the four or five points that are used regularly in business and industry to set wages, and if you could show that—and that burden would be on you just as the burden is on the woman here on the Equal Pay Act. Then the response must come from the employer. This is very difficult. Women are doing much of it themselves, but if you look at the average woman—and let us leave no doubt about what we are seeing. We always talk about how many of us have become doctors, lawyers and Indian chiefs. The average woman today works in a sex-segregated job where the wage has been set by the gender that has always held that job.

Ms. SHEA-PORTER. So we need two bills?

Ms. NORTON. So I am going to introduce that bill today. I think we have got to move—this would be a giant step forward. Since 1963, there has not been a single thing done to the Equal Pay Act, and it has become, essentially, a statute in disuse.

I think the first thing to do is to, in fact, update, give this statute the same muscle we have given every other antidiscrimination statute and see what it does and then move on.

Ms. SHEA-PORTER. I just want to thank both of you for being here and for this work, and I am very, very grateful for all social workers.

Thank you.

Chairman MILLER. Thank you very much. Thank you so much.

If our next panel will please come forward—Catherine Hill, Dedra Farmer, Diana Furchtgott-Roth, and Heather Boushey. If you will sit down, we will put your nameplates where you sit. Let me welcome you to the committee.

We will begin with Catherine Hill. Catherine Hill is the Director of Research at the American Association of University Women Educational Foundation, Dr. Hill has researched gender equity on education in the workplace. Dr. Hill received a Ph.D. from Rutgers University, her master's in urban planning.

Ms. Dedra Farmer is from Lawrence, Kansas. Ms. Farmer has been employed at Wal-Mart for 13 years, and is currently one of the 1.5 million women who are part of the class action lawsuit against Wal-Mart, alleging wage discrimination and unequal opportunities for promotion. Ms. Farmer has proudly spent her career working in the automotive services industry and currently manages an automotive shop in Lawrence.

Ms. Diana Furchtgott-Roth is the senior fellow at the Hudson Institute and directs the Institute's Center for Employment Policy. She previously served as the chief economist at the U.S. Department of Labor and was the chief of staff and special advisor to the Council of Economic Advisors. Ms. Furchtgott-Roth received her bachelor's degree in economics at Swarthmore College and a master's in philosophy from Oxford University.

Dr. Heather Boushey is the senior economist with the Center for Economic and Policy Research and previously served as an econo-

mist at the Economic Policy Institute. Dr. Boushey has written on the U.S. labor market, on issues affecting working families. Dr. Boushey received her master's and Ph.D. from the New School on Social Research and her bachelor's degree from Hampshire College.

Welcome to all of you.

Dr. Hill, we are going to begin with you.

**STATEMENT OF CATHERINE HILL, RESEARCH DIRECTOR,  
AMERICAN ASSOCIATION OF UNIVERSITY WOMEN**

Ms. HILL. Thank you very much.

Chairman Miller, members of the committee, thank you for the opportunity to testify today on the issue of pay equity.

AAUW has a long and proud 125-year history as an advocate for education and equity for women and girls, releasing its first report on pay equity in 1913. Today, AAUW and its 100,000 members and 1,300 branches continue its mission through education, research and advocacy. This report behind the pay gap released yesterday provides new evidence that sex discrimination in the workplace continues to be a problem for women.

Mr. Chairman, I request that the full report be made part of the record.

AAUW found that just 1 year after college graduation, women earn only 80 percent of what their male counterparts earn. Even when they make the same choices as men in terms of field of study and occupation, they earn less than their male counterparts. 10 years after graduation, women fall further behind, earning only 69 percent as what men earn. After controlling for factors known to affect earnings, a portion of these pay gaps remain unexplained, and it is likely due to discrimination.

This study is based on recent nationally representative surveys conducted by the U.S. Department of Education. The Baccalaureate and Beyond dataset is unique because it follows bachelor degree recipients as they navigate the workplace, graduate school and other life choices such as having a family. The research examines two sets of college graduates—men and women who graduated in 1999-2000 and men and women who graduated in 1992-1993. By looking at earnings just 1 year out of college, we believe you have as level a playing field as possible. The 1992-1993 graduates were chosen so they could analyze the earnings over a 10-year period after graduation.

The pay gap can only be partly explained by choices. A pay gap between recently graduated women and men is found in nearly every occupation and every major. That is after controlling for factors like the major, job, industry, hours worked, workplace flexibility, work experience, educational attainment, GPA, college institutional selectivity, age, race/ethnicity, region, marital status. Even when we control for all of these factors, a 5-percent difference in the earnings of male and female college graduates is not explained 1 year after graduation. It is reasonable to assume that this difference is the product of discrimination.

Choices explain even less of the pay gap 10 years after graduation. Controlling for a similar set of factors, including motherhood, we found a 12-percent difference in the earnings of male and fe-

male college graduates that is unexplained and attributable only to gender.

This research asks a basic and important question: If a woman makes the same choices as a man, would she make the same pay? The answer is no. In fact, 10 years after graduation, this pay gap is widening. Strikingly, women did not make gains in any of the fields in that 10-year period compared to their male counterparts.

It is also important to note that what we call “women’s choices” are often constrained and need to be looked at in context. When women earn less, most couples are likely to prioritize a higher earning husband’s career path. When women are married, this trade-off may be worthwhile. While most women marry at some point, most also spend a large part of their lives on their own. Women are investing in higher education but are not receiving the same salaries as men. Strikingly, a woman who earned a degree from a highly selective institution had lower earnings than a man with a degree from a highly selective institution or a moderately selective institution and about the same pay as a man who attended a minimally selective college.

Both women and men invest a great deal of financial resources in their college education and often graduate with substantial student loans. AAUW’s research suggests that women’s investment in attending a highly selective school, which typically costs more than other schools, does not pay off for her in the same way that it pays off for her male counterparts. Because of the pay gap, women could have a harder time paying off their student loans. So what can be done about the gender pay gap?

Too often, both men and women dismiss the gender pay gap as something amounting to different choices, and while decisions about a college major and the kinds of jobs that you accept can make a difference, individuals cannot simply avoid the pay gap by making different choices. Even women who make the same occupational choices as men will not end up with the same earnings.

Women’s progress through the past 30 years attests to the possibility of change. Before Title IX and Title VII, employers could and did refuse to hire women whose occupations were deemed unsuitable, fire women when they became pregnant, limit women’s work schedules simply because they were female. Schools could and did set quotas for the number of women admitted or refused admission to women all together. In the decades since, women have made remarkable progress in the fields of law, medicine and business. 30 years ago, the pay gap was often attributed to the notion that women’s education and skills simply did not measure up.

If that were ever the case, that is certainly not the case today. Unfortunately, women’s educational gains have not fully translated into equal pay for women in the workplace. In fact, the pay gap remains larger for college graduates than it is for the population as a whole. AAUW’s research provides strong evidence that sex discrimination still exists in the workplace and is not disappearing on its own. We must take stronger steps to address these critical issues.

Two pieces of legislation will provide additional tools in this struggle. AAUW strongly supports the Paycheck Fairness Act introduced and discussed by my fellow panelist, Representative Rosa

DeLauro. We also endorse the Fair Pay Act introduced by Representative Eleanor Holmes Norton.

Collectively, women have demonstrated they have the skills and the intelligence to do any job. Women have made enormous gains in education and labor force participation, and now it is time for paychecks to catch up.

Thank you.

Chairman MILLER. Thank you.

[The statement of Ms. Hill follows:]

**Prepared Statement of Catherine Hill, Ph.D., Director of Research,  
American Association of University Women**

Chairman Miller and members of the Committee, thank you for the opportunity to testify today on the issue of pay equity for men and women.

I am the Director of Research at the American Association of University Women Educational Foundation. Founded in 1881, AAUW has over 100,000 members and 1300 branches across the country. AAUW also has a long and proud 125-year history as an advocate for education and equity for women and girls, releasing its first report on pay equity in 1913. Today, AAUW continues its mission through education, research, and advocacy.

I am pleased to share findings from AAUW's research report *Behind the Pay Gap*, co-authored by myself and Judy Goldberg Dey. This report—just released yesterday—provides new evidence that sex discrimination in the workplace continues to be a problem for women, including young college-educated women.

In our report, AAUW found that just one year after college graduation, women earn only 80 percent of what their male counterparts earn. Even women who make the same choices as men in terms of fields of study and occupation earn less than their male counterparts. Ten years after graduation, women fall further behind, earning only 69 percent of what men earn. After controlling for factors known to affect earnings, a portion of these pay gaps remains unexplained and is likely due to discrimination.

*The study is based on recent, nationally representative surveys conducted by the U.S. Department of Education.*

AAUW's research uses the Baccalaureate and Beyond Longitudinal Study, a nationally representative data set of college graduates produced by the U.S. Department of Education. This data set is unique because it is designed to follow bachelor's degree recipients as they navigate the workplace, graduate school and other life changes such as having a family. The research examines two sets of college graduates: men and women who graduated in 1999-2000, and men and women who graduated in 1992-93; we also limited our analysis to those who earned their first bachelor's degree at age 35 or younger.

The 1999-2000 graduates were chosen because they were the most recent graduates interviewed in the year after graduation. By looking at earnings just one year out of college, we believe you have as level a playing field as possible. These employees don't have a lot of work experience and, for the most part, don't have care-giving obligations, so you'd expect there to be very little difference in the wages of men and women. The 1992-1993 graduates were chosen so that we could analyze earnings ten years after graduation.

*The pay gap can only be partially explained by differences in choices.*

Despite some gains, many majors remain strongly dominated by one gender. Female students are concentrated in majors that are associated with lower earnings, such as education, health, and psychology. Male students dominate the higher-paying majors: engineering, mathematics, physical sciences, and business. Both women and men who majored in "male-dominated" majors earn more than those who majored in "female-dominated" or "mixed-gender" majors.

The choice of major is not the full story, however, as a pay gap between recently graduated women and men is found in nearly every field and in every occupation.

Women full-time workers earn less than men full-time workers in nearly every major, although the size of the gap varies. In education, a female-dominated major and occupation, women earn 95 percent as much as their male colleagues earn. In biology, a mixed-gender field, women earn only 75 percent as much as men earn, just one year after graduation.

The kinds of jobs that women and men accept also account for a portion of the gender pay gap. While the choice of major is related to occupation, the relationship is not strict. For example, some mathematics majors teach, while others work in business or computer science. It is important to bear in mind that such choices themselves can be constrained in part by biased assumptions regarding appropriate career paths for men and women. Other differences in type of jobs also affect earnings. For example, women are more likely than men to work in the nonprofit and public sectors, where wages are typically lower than in the for-profit sector.

*A portion of the pay gap in the year after graduation is not explained by women's choices or characteristics.*

AAUW's analysis showed that men and women's different choices can explain only some of the wage gap. After controlling for factors like major, occupation, industry, sector, hours worked, workplace flexibility, experience, educational attainment, enrollment status, GPA, institution selectivity, age, race/ethnicity, region, marital status and children, a five percent difference in the earnings of male and female college graduates is unexplained. It is reasonable to assume that this difference is the product of discrimination.

Discrimination is difficult to measure directly. It is illegal, and furthermore, most people don't recognize discriminatory behavior in themselves or others. This research asked a basic but important question: If a woman made the same choices as a man, would she earn the same pay? The answer is no.

*Ten Years after Graduation, the Pay Gap Widens.*

AAUW's analysis found that, ten years after graduation, the gender pay gap widened—so much so that female full-time workers earned only 69 percent of what their male peers earned.

Ten years out, the gender gap within occupations also increased. For example, in engineering and architecture, where wages were at parity one year out of college, we now see that women earn only 93 percent of what their male counterparts earn. In business and management, the wage gap widens, with women earning 69 percent of men's wages, compared to 81 percent one year out. Strikingly, women did not make gains in any fields compared to their male counterparts.

Similar to what we saw one year out of college, this pay gap can only partially be explained as a result of women's characteristics and choices. In terms of occupation, women and men remained segregated in the workforce over time, and the difference in earnings among occupations grew over this time period. This occupational segregation is mirrored in the gender division by industry. Women also continued to be much more likely to work in the lower-paying non-profit sector. Among full-time workers, women reported working fewer hours than men, and their employment and experience continuity also differed from men. These choices were associated with wage penalties.

It is important to note that what we are calling women's "choices" are often constrained and need to be looked at in context. When women earn less—as they almost immediately do right out of college—most couples are likely to prioritize the higher-earning husband's well-being and career path in relation to child care, choice of residence, and other household decisions. When women are married, this tradeoff may be worthwhile; however, nearly one half of women did not live with a husband in 2005. While most women marry at some point, most also spend a large part of their lives on their own. Women are also much more likely than men to be single parents.<sup>1</sup> It is important for us to remember that lower pay for women means fewer resources for their children today and their retirement tomorrow.

*Women are investing in higher education, but not receiving the same salaries as men.*

Choices made in college affect earnings ten years later. College selectivity matters for men and women, but gender differences were more pronounced. Strikingly, a woman who earned a degree from a highly selective institution had lower earnings than men with degrees from highly selective institutions or moderately selective schools, and about the same pay as a man who attended a minimally selective college. Both women and men invest a great deal of financial resources in their college educations, and often graduate with substantial student loans. AAUW's research suggests that a woman's investment in attending a highly selective school—which is typically more expensive—does not pay off for her in the same way it does for

<sup>1</sup>American Community Survey; [http://factfinder.census.gov/servlet/STTable?\\_bm=y&-geo-id=01000US&-qr=name=ACS-2005-EST-G00-S1101&-ds=name=ACS-2005-EST-G00](http://factfinder.census.gov/servlet/STTable?_bm=y&-geo-id=01000US&-qr=name=ACS-2005-EST-G00-S1101&-ds=name=ACS-2005-EST-G00)

her male counterparts. Further, because of the pay gap, women often have a harder time paying off their student loans.

*Ten years out, the unexplained portion of the pay gap widens.*

AAUW's analysis showed that while choices mattered, they explained even less of the pay gap ten years after graduation. Controlling for a similar set of factors, we found that ten years after graduation, a twelve percent difference in the earnings of male and female college graduates is unexplained and attributable only to gender.

*The pay gap among full-time workers understates the lifetime difference in the earnings of women and men.*

The impact of personal choices such as parenting have profoundly different effects on men and women. Ten years after graduation, 23 percent of mothers in this sample were out of the work force, and 17 percent worked part-time. Among fathers, only 1 percent were out of the work force, and only 2 percent worked part-time. Stay-at home dads in this study appear to be a rare breed. We know that most mothers return to the workforce, and hence it is reasonable to assume that the pay gap between men and women will widen as mothers return to full-time employment, driving down average earnings for women.

Interestingly, motherhood is not the driving factor behind the wage gap among women working full-time ten years after graduation.<sup>2</sup> That is, mothers who were in the workforce full-time did not earn less than other women also working full-time, controlling for other factors such as occupation and field of study.

*What can be done about the gender pay gap?*

First, it must be publicly recognized as a serious problem. Too often, both women and men dismiss the pay gap as simply a matter of different choices. While choices about college major and jobs can make a difference, individuals cannot simply avoid the pay gap by making different choices. Even women who make the same occupational choices that men make will not end up with the same earnings. If "too many" women make the same occupational choice, resulting in job segregation, earnings can be expected to decline.

Women's progress throughout the past 30 years attests to the possibility of change. Before Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act of 1964, employers could—and did—refuse to hire women for occupations deemed "unsuitable," fire women when they became pregnant, or limit women's work schedules simply because they were female. Schools could—and did—set quotas for the number of women admitted or refuse women admission altogether. In the decades since these civil rights laws were enacted, women have made remarkable progress in fields such as law, medicine, and business. Thirty years ago the pay gap was attributed to the notion that women's education and skills just didn't "measure up." If that was ever the case, it certainly isn't true now.

Unfortunately, women's educational gains—ironically likely motivated in part by women's desire for economic security<sup>3</sup>—have not translated into equal pay for women in the workforce. In fact, the pay gap remains larger for college graduates than the population as a whole.<sup>4</sup>

AAUW's research report provides strong evidence that sex discrimination still exists in the workplace and is not disappearing on its own. Existing laws have failed to end the inequities that women face in the workplace. AAUW believes we must take stronger steps to address this critical issue. Two pieces of legislation—the Paycheck Fairness Act and the Fair Pay Act—would provide additional tools in the struggle for equal pay.

AAUW strongly supports the Paycheck Fairness Act, introduced and discussed by my fellow panelist, Rep. Rosa DeLauro. AAUW also endorses the Fair Pay Act, introduced by Rep. Eleanor Holmes Norton, which addresses the reality that men and women often work in different industries and jobs, and requires employers to provide equal pay for work of equal value, whether or not the jobs are identical.

<sup>2</sup>This is in keeping with research that shows that a "motherhood penalty" applies to most women but less to women who maintain continuous work force attachment (Lundberg & Rose, 2000).

<sup>3</sup>DiPrete, Thomas A., & Claudia Buchmann. (2006, February). Gender-specific trends in the value of education and the emerging gender gap in college completion. *Demography*, 43(1), 1-24.

<sup>4</sup>Authors calculation from tables produced by the U.S. Department of Labor, Bureau of Labor Statistics. (2006). Median Usual Weekly Earnings, Employed Full Time, Wage and Salary Workers, 25 Years and Older. Retrieved April 16, 2007 from <http://www.bls.gov/cps/>.



Collectively, women have demonstrated that they have the skills and the intelligence to do any job. Women have made enormous gains in education and labor force participation. Now it's time for our paychecks to catch up.

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Chairman MILLER. Ms. Farmer.

**STATEMENT OF DEDRA FARMER, EMPLOYED BY WAL-MART  
FOR 13 YEARS**

Ms. FARMER. Hi. I am Dedra Farmer, and I have traveled from Lawrence, Kansas to appear before this committee today. I hope that the experience that I and other women have had who worked with me at the largest private employer in this country where we were paid less than men, doing the same work, will help this committee as it considers new legal protections against wage discrimination in the American workplace.

I worked at Wal-Mart Stores from November of 1989 through December of 2002. I was 19 years old when I began my employment at Wal-Mart, and expected to work there for many years. I worked in the Tire Lube Express Division, TLE, because my father, who was an automobile mechanic, kindled in me an interest in automobiles and their maintenance and repair.

Most of the employees in the TLE Division were men. In the three stores at which I worked, all located in Kansas, 90 to 95 percent of salaried managers were men. I was the only woman in my district who held a salaried TLE manager position. Throughout the TLE Division, I saw evidence of women being paid less than men who held the same jobs. At the time I was promoted into the TLE manager job, for example, I was assigned a salary of \$28,000 while most men were paid a base salary of \$30,000 when they entered the same job. I was very good at my work and consistently received high-performance ratings.

My boss also thought highly of my work as he had assigned me to train the new TLE managers, all of whom were men. I was amazed, however, to learn, after I was promoted, that these new managers were paid more than myself after I had completed training them. As a manager, I also had access to the payroll information of four employees in the TLE Division. Although the male district managers set their pay levels, I saw numerous examples of women in hourly positions being paid less than men holding the same jobs with shorter tenure at Wal-Mart.

In addition to base pay, managers at Wal-Mart are eligible to receive bonuses in amounts that depend largely on the volume of sales at the stores where they work. Consistently, I was denied assignment to stores with higher sales volumes than the men whose performance and tenure at Wal-Mart were no better than mine. Although I was hesitant to do so, eventually, I complained about being paid less than men who performed the same work as I.

I made my complaint by sending an e-mail to Lee Scott, the CEO of Wal-Mart, in August of 2000. While I was assured that they would investigate my complaint by running spreadsheets to analyze any gender gap in pay that may exist and get back to me, I heard nothing from them. So I sent Mr. Scott another e-mail in February 2001, raising the same concerns. I never saw any spreadsheets, and never even received a response to my later e-mail. In

October 2002, in a meeting of all employees at my store with our store manager known as a "grassroots meeting," again, I expressed my concern that women were being paid less than men and that a systematic analysis of pay had to be conducted. The store manager assured me that I would receive a response to my concerns within 90 days.

The response I received was a pink slip, notifying me that I was being fired less than 3 months later on New Year's Eve 2002. When I asked why I was being terminated, I was told that I had taken too many breaks. I challenged that reason. When the time records revealed that the frequency of my breaks complied with the company rules, my boss offered a different reason to support my discharge rather than allow me to return to work.

I currently serve as the store manager of an AutoZone store in Lawrence, Kansas where I have been treated very well. I have joined the Dukes versus Wal-Mart class action that is pending in Federal court in San Francisco, and I am proud to have provided a sworn statement about these events that is part of the court record in that case. There, a class of more than 1.6 million women who have worked in Wal-Mart Stores in the United States since December of 1998 has produced evidence that Wal-Mart has discriminated against us in a denial of our fair share of promotions and in paying us less for the same work performed by men with the same or shorter tenure and the same or weaker performance.

I hope that you are able to strengthen the protection against sex discrimination and pay in this country. I was fortunate to have had access to information from which I learned that women were regularly paid less than men at the Wal-Mart stores at which I worked. Most women would not know these pay differences exist and, therefore, would lack the evidence with which to challenge discriminatory pay practices much less the enormous resources and courage needed to file a lawsuit against their employer.

Thank you.

Chairman MILLER. Thank you.

[The statement of Ms. Farmer follows:]

**Prepared Statement of Dedra Farmer, Former Wal-Mart Employee**

I am Dedra Farmer and I've traveled from Lawrence, Kansas to appear before this Committee today. I hope that the experience that I and other women who worked with me at the largest private employer in this country, where we were paid less than men doing the same work, will help this Committee as it considers new legal protections against wage discrimination in the American workplace.

I worked at Wal-Mart Stores from November, 1989 through December, 2002. I was 18 years old when I began my employment at Wal-Mart and expected to work there for many years. I worked in the Tire Lube Express Division ("TLE ") because my father, who was an automobile mechanic, kindled in me an interest in automobiles and their maintenance and repair.

Most of the employees in the TLE Division were men. In the three stores at which I worked, all located in Kansas, 90 to 95% of the hourly sales employees were men. I was the only woman in my district who held a salaried TLE Manager position.

Throughout the TLE Division, I saw evidence of women being paid less than men who held the same jobs. At the time I was promoted into a TLE Manager job, for example, I was assigned a salary of \$ 28,000 while most men were paid a base salary of \$30,000 when they entered the same jobs.

I was very good at my work and consistently received high performance ratings. My boss also thought highly of my work, as he assigned me to train the new TLE managers, all of whom were men. I was amazed, however, to learn from these new managers that they were paid more than I while I trained them.

As a manager, I also had access to payroll information for employees in the TLE Division, although the male District Manager set their pay levels. I saw numerous examples of women in hourly positions being paid less than men holding the same jobs with shorter tenure at Wal-Mart.

In addition to base pay, managers at Wal-Mart are eligible to receive bonuses in amounts that depend largely on the volume of sales at the stores where they work. Consistently, I was denied assignment to stores with higher sales volumes than men whose performance and tenure at Wal-Mart were no better than mine.

Although I was hesitant to do so, eventually I complained about being paid less than men who performed the same work as I. I made my complaint by sending an email to Lee Scott, the CEO of Wal-Mart in August, 2000. While I was assured they would investigate my complaint by running spreadsheets to analyze any gender gap in pay that may exist and get back to me, I heard nothing from them. So I sent Mr. Scott another email in February, 2001, raising the same concerns. I never saw any spreadsheets and never even received a response to my later email. In October, 2002, at a meeting of all employees at my store with our store manager, known as a "grassroots meeting," again I expressed my concern that women were being paid less than men and that a systematic analysis of pay had to be conducted. The store manager assured me that I would receive a response to my concerns.

The response I received was a pink slip, notifying me that I was being fired less than three months later, on New Year's Eve, 2002. When I asked why I was being terminated, I was told I had taken too many breaks. I challenged that reason. When the time records revealed that the frequency of my breaks complied with company rules, my boss offered a different reason to support my discharge, rather than allow me to return to work. I currently serve as the store manager at Autozone in Lawrence, Kansas where I have been treated very well.

I have joined the Dukes v. Wal-Mart class action that is pending in federal court in San Francisco and am proud to have provided a sworn statement about these events that is part of the court record in that case. There, a class of more than 1.6 million women who have worked in Wal-Mart stores in the United States since December, 1998 has produced evidence that Wal-Mart has discriminated against us in the denial of our fair share of promotions and in paying us less for the same work performed by men with the same or shorter tenure and the same or weaker performance.

I hope that you are able to strengthen the protections against sex discrimination in pay in this country. I was fortunate to have had access to information from which I learned that women were regularly paid less than men at the Wal-Mart stores at which I worked. Most women wouldn't know these pay differences exist and, therefore, would lack the evidence with which to challenge discriminatory pay practices, much less the enormous resources and courage needed to file a lawsuit against their employer.

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Chairman MILLER. Ms. Diana Furchtgott-Roth, welcome.

**STATEMENT OF DIANA FURCHTGOTT-ROTH, DIRECTOR,  
CENTER FOR EMPLOYMENT POLICY, HUDSON INSTITUTE**

Ms. FURCHTGOTT-ROTH. Hi, Mr. Chairman, members of the committee. I am honored to be invited to testify here today. Thank you very much for inviting me.

Well, I would like to say that, despite a lot of what we have heard today, American women are doing great. The United States leads the industrialized world in job creation, and unemployment rates for women are about the lowest in the industrialized world. In contrast, unemployment rates for women in most other countries are far higher. In February, the latest month for which we have comparable data, American women had an unemployment rate of 4.3 percent; whereas, unemployment rates in the Euro zone for women, were 8.9 percent; in France, 9.7 percent; in Germany, 8.3 percent, and in Spain, 11.9 percent.

Men and women are entitled to equal pay for equal work right now if they have the same job responsibilities and skills. Congresswoman DeLauro and Chairman Miller are paid identically as are

many other men and women with the same jobs. Two entry level cashiers at the same supermarket, a male and a female, are entitled to be paid the same as are male and female first-year associates in the same law firm. If they believe they are underpaid, they have the legal right to sue for discrimination as Ms. Farmer is doing right now. We have remedies for discrimination now.

Academic studies of gender discrimination focus on the measurement of the wage gap, which is the difference between men's and women's earnings. Dozens of studies of these, of wage gaps, have been published, and the studies attempt to measure through an economic technique of which I will not go into the differences, and the more explanatory variables that are included in a regression analysis, the more the wage gap can be explained. An analysis that omits variables shows an unexplained residue that some people can term "discrimination."

To take one study as an example, Professor June O'Neill in a study published in 2003 in the economics profession's flagship journal—the American Economic Review—shows an unadjusted wage ratio of 78.2 percent. When she added data on demographics, the wage ratio rises to 91.4 percent. Then when she added other variables such as workplace and occupational characteristics as well as child-related factors, the ratio rose to 95.1 percent. When the percentage female in the occupation was added, the ratio became 97.5, an insignificant difference. It just goes to show, the more variables you add, the more you can explain. The study by Dr. Hill that she just presented has many important variables, but it also omits other important variables. One of those is accumulated lifetime hours of work.

Another thing that it does is it uses very broad occupational categories, so I have a page from this study right here on page 42. So the industry and occupations—and in occupation, she looks at business and management, computer science, education, medical professions. Let us just take medical professions. There are a lot of different salaries for doctors or, under industry, there are manufacturing and health care. Again, there are a lot of different salaries for males and females within these broad occupation and industry categories, and you need to go into a lot finer detail to see whether it is fair or discriminatory that two people, male and female, are not paid the same.

The Paycheck Fairness Act would have Washington interfere with an employer's ability to set wages. As you all know, section VII of the proposed bill says the Secretary of Labor shall develop guidelines to enable employers to evaluate job categories based on objective criteria such as educational requirements, skill requirements, independence, working conditions, and responsibility, but these factors are not only very difficult to measure—difficult for anyone, not only the Secretary of Labor—but they also favor white collar and service jobs over manual, blue collar work. The bill's language omits experience, risk, inflexibility of work schedules, the need to travel, physical strength. These are all factors that increase men's wages relative to women's in some of these male-dominated occupations.

Rather than helping women, the Paycheck Fairness Act would hurt them by increasing the cost of hiring. Employers would be

likely to choose male over female candidates just in order to avoid the risk of litigation. The Paycheck Fairness Act would have the government, not employers and not you, determine how much you make. That is the most radical idea in American labor law today.

Thank you very much.

[The statement of Ms. Furchtgott-Roth follows:]

**Prepared Statement of Diana Furchtgott-Roth, Senior Fellow,  
Hudson Institute**

Mr. Chairman, members of the Committee, I am honored to be invited to testify before your Committee today on the subject of the Paycheck Fairness Act. I have followed and written about this and related issues for many years. I am the co-author of two books on women in the labor force, "Women's Figures: An Illustrated Guide to the Economic Progress of Women in America," and "The Feminist Dilemma: When Success Is Not Enough."

Currently I am a senior fellow at the Hudson Institute. From February 2003 until April 2005 I was chief economist at the U.S. Department of Labor. From 2001 until 2003 I served at the Council of Economic Advisers as chief of staff and special adviser. Previously, I was a resident fellow at the American Enterprise Institute. I have served as Deputy Executive Secretary of the Domestic Policy Council under President George H.W. Bush.

In 2007, the United States leads the industrialized world in job creation, and the unemployment rate for adult women is among the lowest in the industrialized world. In contrast, unemployment rates for women in most other countries are far higher. In February, the latest month for which comparable data are available, American women had an unemployment rate of 4.3 percent, while unemployment rates for women in the Eurozone were 8.9 percent; in France, 9.7 percent; in Germany, 8.3 percent; and in Spain, 11.9 percent. Only Japan had a lower rate than the United States, and its economy is characterized by a slower rate of GDP growth.

Even though American women are so successful, some are concerned that they are falling behind. Some believe, with the best of intentions, that if wage guidelines were to be implemented, women would make even more progress. Representative DeLauro has said that women make only 77% of men's wages, and that is why she has reintroduced the "Paycheck Fairness Act," which she also introduced in the previous Congress. The bill would require the government to set wage guidelines for different occupations, with the goal of equalizing wages of men and women.

But Representative DeLauro's claim of unequal pay is exaggerated and distorted. Worse, her remedy might cause employers to favor hiring men, to avoid the possibility of being sued or boycotted under federal "guidelines."

Men and women generally have equal pay for equal work now—if they have the same jobs, responsibilities, and skills. Congresswoman DeLauro and Chairman Miller are paid identically, as are many other men and women with the same job. Two entry-level cashiers at a supermarket, one male and one female, are usually paid the same, as are male and female first-year associates at law firms. If they believe they are underpaid, they can sue for discrimination under current law—as Walmart employees are doing now.

The 77% figure cited by Representative DeLauro comes from comparing the 2005 full-time median annual earnings of women with men compiled by the Census Bureau. The 2006 Department of Labor data show that women's full-time median weekly earnings are 81% of men's. Comparing men and women who work 40 hours weekly yields a ratio of 88%.

These wage ratios are computed from aggregate government data and do not take into account differences in education, job title and responsibility, regional labor markets, work experience, occupation, and time in the workforce. When economic studies include these major determinants of income, rather than simple averages of all men and women's salaries, the pay gap shrinks even more. A report by Jody Feder and Linda Levine of the Congressional Research Service entitled "Pay Equity Legislation in the 110th Congress,"<sup>1</sup> declared that "Although these disparities between seemingly comparable men and women sometimes are taken as proof of sex-based wage inequities, the data have not been adjusted to reflect gender differences in all

<sup>1</sup>Jody Feder and Linda Levine, "Pay Equity Legislation in the 110th Congress," CRS Report for Congress RL31867, Washington, DC: Congressional Research Service, Updated January 5, 2007.

characteristics that can legitimately affect relative wages (e.g. college major or uninterrupted years of employment)."

Academic studies of gender discrimination focus on the measurement of the "gender wage gap," the difference between men's and women's earnings. Dozens of studies of the gender wage gap have been published in academic journals over the past two decades. These studies attempt to measure the contributing effects of all the factors that could plausibly explain the wage gap through an econometric technique called regression analysis. The remaining portion of the wage gap that cannot be explained by measurable variables is frequently termed "discrimination." Generally, the more explanatory variables that are included in the econometric regression analysis, the more of the wage gap that can be explained, and the less is the residual portion attributable to "discrimination." An analysis that omits relevant variables finds a greater unexplained residual.

When no variables (such as education, job title, regional labor market, work experience, occupation, and number of hours worked) are used to explain the wage ratio, the wage gap between men and women appears to be large. However, simple wage ratios do not take into account other determinants of income. They are computed using purely mathematical calculations of U.S. labor market data published by the Bureau of Labor Statistics of the U.S. Department of Labor. Comparisons of men's and women's wages need to be made carefully, because there are differences in hours worked by men and women.

Regression analysis gives us a powerful tool with which to examine the wage gap in the context of important determinants of income. Regression analysis is a statistical technique that allows us to account for other important variables in determining compensation, such as education, job title, regional labor market, experience, occupation, number of children, and time in the workforce.

Let's take an example of how regression analysis allows us to distinguish different factors that affect earnings. A female nurse might earn less than a male orthopedic surgeon. But this would not be termed "unfair" or "discrimination" because the profession of surgeon requires more years of education, the surgeon might work different hours from the nurse, and the nurse might have fewer continuous years of work experience due to family considerations.

The standard literature in analyzing wage gaps between men and women is centered on measuring these varying factors. Professors such as Francine Blau and Lawrence Kahn,<sup>2</sup> Charles Brown and Mary Corcoran,<sup>3</sup> David Macpherson and Barry Hirsch,<sup>4</sup> and Jane Waldfogel<sup>5</sup> all take these factors into account to a greater or lesser degree. There are no peer-reviewed academic studies that measure the wage gap between men and women without using regression analysis to account for the major factors affecting wages.

To take one study as an example, Professor June O'Neill, in an article published in 2003 in the economics profession's flagship journal *The American Economic Review*,<sup>6</sup> shows that the observed unadjusted wage ratio between women and men in 2000 is 78.2 percent. When data on demographics, education, scores on the Armed Forces Qualification Test, and work experience are added, the wage ratio rises to 91.4. The addition of variables measuring workplace and occupational characteristics, as well as child-related factors, causes the wage ratio to rise to 95.1 percent. When the percentage female in the occupation is added, the wage ratio becomes 97.5 percent, an insignificant difference.

In another study, Professors Marianne Bertrand of the University of Chicago and Kevin Hallock of Cornell University found almost no difference in the pay of male and female top corporate executives when accounting for size of firm, position in the company, age, seniority, and experience.<sup>7</sup>

Lower pay can reflect decisions—by men and women—about field of study, occupation, and time in the workforce. Those who don't finish high school earn less. College graduates who major in humanities rather than the sciences have lower incomes. More women than men choose humanities majors.

<sup>2</sup>Francine D. Blau and Lawrence M. Kahn, "The US Gender Pay Gap in the 1990s: Slowing Convergence," National Bureau of Economic Research, Working Paper 10853, October 2004.

<sup>3</sup>Charles Brown and Mary Corcoran, "Sex-Based Differences in School Content and the Male/Female Wage Gap," *Journal of Labor Economics* 15 (July 1997 Part 1): 431-65

<sup>4</sup>David A. Macpherson and Barry T. Hirsch, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" *Journal of Labor Economics* 13 (July 1995): 426-71.

<sup>5</sup>Jane Waldfogel, "Working Mothers Then and Now: A Cross-Cohort Analysis of the Effects of Maternity Leave on Women's Pay," in *Gender and Family Issues in the Workplace*, edited by Francine D. Blau and Ronald G. Ehrenberg (New York: Russell Sage Foundation, 1997).

<sup>6</sup>June O'Neill, "The Gender Gap in Wages, Circa 2000," *American Economic Review*, Vol. 93, No.2, Papers and Proceedings of the One Hundred Fifteenth Annual Meeting of the American Economic Association, Washington, D.C., January 3-5, 2003 (May 2003), 309-314.

Employers pay workers who have taken time out of the work force less than those with more experience on the job, and many women work less for family reasons. A choice of more time out of the workforce with less money rather than more time in the workforce with more income is not a social problem. A society that gives men and women these choices, as does ours, is something to applaud.

The "Paycheck Fairness Act" would have Washington interfere with employers' ability to set wages. Section 7 of the proposed bill reads "The Secretary of Labor shall develop guidelines to enable employers to evaluate job

These factors are not only difficult to measure, but favor white collar and service jobs over manual, blue collar work. The bill's language omits experience, risk, inflexibility of work schedule, or physical strength, factors that increase men's wages relative to women's. The bill does not include effort, so there is little leeway to promote those who work harder.

Although the guidelines in the Paycheck Fairness Act would be "voluntary," this can be a slippery slope that leads to compulsory standards. Any president could instruct Federal agencies to do business only with those firms that meet the guidelines.

Rather than helping women, the Paycheck Fairness Act would hurt them by increasing the costs of hiring. Employers would be likely to choose male over female candidates to avoid litigation.

America leads the world in job creation, and almost 60% of women work. The latest unemployment rate for adult women, at 3.4%, is lower than that for men, at 3.5%. Women are closing the pay gap not because of government statutes and regulations, but because their education is increasing and they are spending more time in the workforce. Women they earn well over half of all B.A.s and M.A.s awarded, and nearly half of professional degrees in law and medicine.

The Paycheck Fairness Act would have the government—not you, and not your boss—to determine how much you make. This is the most radical idea in American labor law today.

Some support the Paycheck Fairness Act because, 40 years after the Equal Pay Act, average full-time female workers' wages are still lower than men's. However, this so-called wage gap is not necessarily due to discrimination. Decisions about field of study, occupation, and time in the workforce can lead to lower compensation, both for men and women. Those who choose college majors in the humanities rather than in the sciences tend to earn less. Many women choose humanities majors, and will for that reason make less than both men and women who choose to major in computer science. On the other hand, those women who choose computer science and engineering have higher incomes than either men or women who major in the humanities.

Men and women who take time out of the workforce to look after children, and in order to do so choose jobs with fewer hours or more flexible schedules, frequently have lower incomes than those who stay in the workforce continuously and work longer hours. Some choose not to return to paid work, preferring to be homemakers.

Some jobs command more than others because people are willing to pay more for them. Many jobs are dirty and dangerous, such as oil drilling, construction work, mining, and roofing. Other highly paid occupations have long inflexible hours, such as truckers, plumbers, and electricians. According to data from the Bureau of Labor Statistics, these jobs are primarily performed by men. Women are not excluded from these or other jobs, but often select professions with a more pleasant environment and potentially more flexible schedules, such as teaching and office work. Many of these jobs pay less.

Proponents of wage guidelines, such as the National Committee on Pay Equity, cite approvingly on their websites examples of where pay equity has been used. One example cited was in Hawaii in 1995, where nurses, mostly female, were given \$11,500 annual raises to bring their salaries in line with those of adult corrections workers, mostly male. But working conditions in prisons are far more dangerous and unpleasant than the atmosphere in hospitals. Another example cited was in Oregon, where the NCPE deemed female clerical specialists were underpaid by \$7,000 a year when compared with male senior sewer workers. Everyone, given a choice of working in an office or a sewer at the same salary, would choose the office. You have to pay people more to work with and in sewers.

We already have laws that require equal pay for equal work. These laws are enforced by the U.S. Equal Employment Opportunities Commission and the

U.S. Department of Labor. We don't need laws that set guidelines for wages by occupation, which would mean equal wages for work of equal value. That would have hurt women, the very people the proposed law purports to help, by discouraging hiring.

Thank you for giving me the opportunity to appear before you today. I would be glad to answer any questions.

Chairman MILLER. Dr. Boushey.

**STATEMENT OF HEATHER BOUSHEY, SENIOR ECONOMIST,  
CENTER FOR ECONOMIC AND POLICY RESEARCH**

Ms. BOUSHEY. Thank you, Chairman Miller and members of the committee, for holding this important hearing today and in providing me with the opportunity to testify on gender pay equality.

The gender pay gap should be a concern to all Americans, not just to women. The typical wife in the United States brings home about a third of her family's income, and over the past generation, families with a working wife have been more likely to move up the working ladder. Since the late 1970s, the additional earnings of wives have made the difference between falling and slightly rising incomes for families in the bottom 40 percent of the income distribution.

When women are shortchanged, the whole family suffers. So why, nearly 50 years after the enactment of the Equal Pay Act, is there still a gender pay gap? Is it that women simply make poor choices and choose jobs with less pay? Most women do continue to work in different kinds of jobs as has been discussed here today, but women also continue to take on the role of primary caregivers at home. These two facts are behind the remaining gap in pay.

Women are disproportionately represented in occupations like nursing, teaching, retail sales, and clerical work, and are more likely than men to work in the nonprofit sector. Many women's jobs are systemically underpaid relative to similarly skilled jobs held by men as discussed by Representative Norton. Women who do attend college continue to choose majors to prepare them for some less well-paid professions, but even within occupations, in the first year out of school, men continue to earn more.

Confronted with the reality of antifamily workplaces, women continue to not only do the most caretaking, but also bear the economic brunt through lowered lifetime earnings. So clearly women, through their choice of occupation, college major and their continuing to care for the next generation, are making some choices that do put them in lower-paying jobs.

But economic analysis shows that nearly 40 percent of the pay gap remains unexplained by such decisions. This means that if women work in the same jobs as men and have the same educational and experience levels, they would still be only making 90 cents on the dollar. We can find no other explanation for this except gender pay discrimination.

But let me state clearly, this remaining gap is not because women are choosing jobs that allow them to better balance work and family. Contrary to this myth, the reality is that mothers, especially single mothers, are actually less likely to be employed in jobs that provide greater flexibility. Only about a quarter of today's workforce reports having any workplace flexibility. It is the better-educated white and male workers who generally have more flexibility to run out of the office for a family emergency or take the afternoon off to take the kids to the dentist.



In fact, parents are more likely than not to have nonstandard shifts in rotating hours, making work-family balance more difficult to achieve. Mothers and caretakers do experience discrimination in the workplace, earning 3 to 10 percent less per child compared to nonmothers in the same jobs with the same experience and the same levels of education. Better leave policies could make workplaces more family- and women-friendly, but, of course, the less a woman earns, the lower down the occupational ladder she is, the less likely she is to have access to have any kind of leave, paid or unpaid.

We can close the gap in pay between men and women, but it will require that we expect employers to acknowledge most workers are also caregivers, and this means workers need some flexibility to be both good workers and good parents. We need to encourage or even mandate that employers offer workplace flexibility when possible and paid parental and sick leave to all workers.

But we can also do more. We can encourage women to go into nontraditional jobs and give them more tools to bargain for better wages. And women need to know the true value of the jobs that they do do. One positive and significant step would be encourage workers to share salary information. If a woman doesn't know how much her male colleagues are earning, she doesn't necessarily know she is being discriminated against. Prohibiting employers from limiting the ability of workers to share their salary information or retaliating against them in any way is an important next step in closing the gender pay gap.

But closing the gender pay gap will also require that policies must do more to help workers balance work and family life. With the majority of parents now at work and most families having no full-time caretaker in the home, employers must recognize that workers should not have to choose between being good workers and good parents. Congress should take action to help women access the information they need to seek remedies to pay discrimination, which hopefully will be just one of many next steps Congress will take on these issues.

Thank you for allowing me to share some important facts with you today.

Chairman MILLER. Thank you.

[The statement of Ms. Boushey follows:]

**Prepared Statement of Heather Boushey, Senior Economist,  
Center for Economic and Policy Research**

Thank you Chairman Miller and Members of the Committee for providing me with the opportunity to speak to you today.

My name is Heather Boushey and I am a senior economist at the Center for Economic and Policy Research, a non-partisan think tank in Washington, DC. My area of expertise is the U.S. labor market, with an emphasis on the interconnections between labor, social policy, and work/life balance.

The way to strengthen the middle class is to ensure equal pay for women. Most women are in the labor force, including over 70 percent of all mothers. Yet, women continue to earn less than men even if they have similar educational levels and work in similar kinds of jobs. The typical full-time, full-year working woman earns only 77 percent of what her male counterparts make. About 40 percent of this gap in pay cannot be explained by women's choices.

The gender pay gap is not just a women's issue. This is a pressing issue for middle class families. The typical wife brings home about a third of her families total income. Over the past few decades, families who had a working wife were more like-

ly to be upwardly mobile. Since the late 1970s, the additional earnings of wives has made the difference between falling and slightly rising incomes for families in the bottom 40 percent of the income distribution.

Closing the pay gap requires that we address the causes of women's lower wages, sex segregation in occupations and the inflexibility of the workplace to women's greater responsibilities for care. Policymakers may not be able to directly reduce occupational segregation, but they can require that employers pay workers doing similar jobs similar wages.

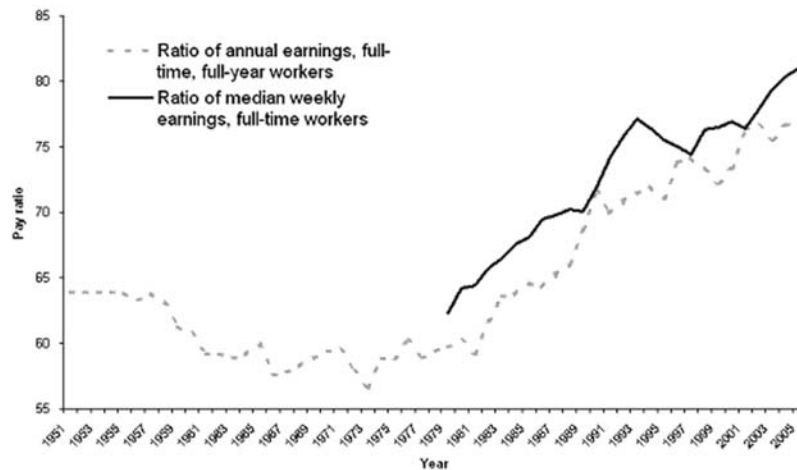
Closing the gender pay gap requires that policymakers do more to help families balance work and family life. With the majority of parents at work and most families having no full-time caretaker in the home, employers must recognize that their workers should not have to choose between being good workers and being good parents. It is women who continue to not only do the most caretaking, but who bear the brunt of the economic penalties of the workplace. Policy initiatives like paid sick days, paid family leave, increased access to flexible workplaces—without pay penalties—are all important steps in leveling the playing field between men and women on the job.

#### *The gender pay gap: Where are we at?*

Nearly half a century after passage of the Equal Pay Act, women still earn less than men for doing similar kinds of jobs. The gender pay gap among full-time, full-year workers is now at 23 cents, meaning that for every dollar a man earns, women earn only 77 cents.

There are various ways to measure the gender pay gap, but the overall trends are similar. Figure 1 shows two different measures: the gender annual earnings ratio among full-time, full-year workers and the gender wage ratio among full-time workers. The ratio of annual earnings began to increase sharply in the 1980s, but then the pace of increases slowed during the 1990s. Since 2001, the ratio of annual earnings has remained about the same, at around 77 cents on the dollar. The weekly earnings ratio follows a similar trend, but showed less convergence than annual earnings during the 1990s.

**Figure 1. Ratio of Women's Pay to Men's**



Source: U.S. Census Bureau and Bureau of Labor Statistics.

The gender pay gap closed as women's employment patterns and educational attainment levels began to look more like men's. Women's employment patterns have also begun to look more and more like men's, at least some of which was due to rising wages, which pulled women into the labor force. Increasingly, women work regardless of their status as wives or mothers (Blau and Kahn 2005; Boushey forthcoming; Juhn and Murphy 1996). These trends are likely to continue because young women are acting as though they intend to work in the paid labor market and continue to make significant investments in their work skills, so much so that women now outnumber men on college campuses.

*Much of the pay gap remains unexplained and cannot be attributed to women's choices*

Research has shown that the gap in pay between men and women is partially attributable to the decisions that men and women make in terms of college major, choice of occupation, and work experience (Dey and Hill 2007). The first two of these—college major and choice of occupation—can be considered an honest choice. Women now have access to higher education and more kinds of jobs than their mothers did. However, there are many aspects of women's employment patterns and pay that cannot reasonably be attributed to choice.

To better understand the gender pay gap, economists use regression-adjusted estimates of pay for men and women, controlling for all measurable productivity-related characteristics of workers. This method allows us to compare the pay of men and women with similar characteristics and determine what factors contribute to the pay gap and what the model cannot explain. Using regression analysis, Blau and Kahn (2007) found that while educational attainment levels lowered the discrepancy in pay between men and women, other productivity-related factors, such as experience, occupation, and industry all increased the gap. Overall, nearly a third of the gender pay gap (27.4 percent) can be explained by differences in occupations, one-fifth (21.9 percent) can be explained by industry, and 10.5 percent can be explained by labor force experience.

However, Blau and Kahn (2007) found that 41.1 percent of the gender pay gap remains unexplained. This means that if women worked in the same jobs as men and had the same educational and experience levels, the gender pay ratio would rise from 80 to 91 percent of men's.

There are two reasons that economists point to explain the gender pay gap. One is the continued segregation of women and men into different kinds of jobs and the other is women's continued role as caregivers.

As Blau and Kahn point out, most of the explained portion of the gender pay gap is due to differences in the industries and occupations that men and women work in. Men continue to be more likely to hold jobs as managers and professionals, transportation or construction workers, or in heavy manufacturing. Women are disproportionately represented in nursing, teaching, retail sales, and clerical work. While the extent to which jobs in the U.S. economy are segregated has fallen since the 1950s, more so for workers with a college degree than for other workers, there remains a high degree of occupational segregation (England 2005).

Most women will eventually have children and there remains strong social and economic pressure for mothers, not fathers, to spend more time caring for children, as well as elderly or ailing relatives. On the one hand, in most families, the woman earns less, so it may make economic sense to prioritize his career. On the other hand, there is a growing body of evidence that points to the conclusion that men face large penalties if they take on caregiving roles (Williams 2007). Even so, over the past generation, women have made great strides in increasing their employment tenure.

The time out of the labor force has a strong effect on lifetime pay for women. Hartmann and Rose (2004) looked over a 15-year period and found that prime-age working women earn only 38 percent of what prime-age men earn. This gender pay gap is about twice as large as the point-in-time usually reported. The 15-year gap in pay between men and women accounts for the fact that women are more likely than men to take off time for caregiving and that there are significant pay penalties for women when they do this.

It is also myth that women choose less-paying occupations because they provide flexibility to better manage work and family. The empirical evidence shows that mothers are actually less likely to be employed in jobs that provide them with greater flexibility. In general, workers who hold higher positions and are privileged in general (better educated, white, male) have more access to all kinds of workplace flexibility. Women are less likely than men to have access to flexibility, but parents—especially single mothers—are not more likely to have access to workplace flexibility (Golden 2001; Golden and Wiens-Tuers 2006; McCrate 2005). In fact, parents are more likely to have nonstandard shifts and rotating hours, making work/family balance more difficult to achieve (Boushey 2006; Presser 2003).

*Strengthen the middle class means paying women fairly*

The gender pay gap has real implications for workers and their families. For millions of women, getting a job provides necessary income and economic security for their families. Wives' earnings are important for family economic security in the short-term and the long-term. Married mothers generally still do not earn as much as their husbands—although a third of wives do earn more than their husbands—

but they provide over a third of the family's income (Bureau of Labor Statistics 2005).

For many families, having a working wife can make the difference between being middle class and not. When we look across the income distribution, families in the higher income brackets are more likely to have a working wife and she puts in more hours than less-well off families. In recent decades, the families that were upwardly mobile were those who had a working wife: recent research by economists at the Boston Federal Reserve shows that over the 1980s and 1990s, the families that moved up the income ladder were those who had a working wife (Bradbury and Katz 2004). The shift in women's work participation is not simply about women wanting to work, but it is also about their families needing them to work.

Even though more families have a working wife, family income has failed to grow as much as it did in the decades just after World War II. Figure 2 shows the growth in median family income for married-couple families from 1947 through 2005, indexed to 1949.<sup>1</sup> The dotted line shows growth in income among families where the wife does not work and the solid line shows growth in income among families where the wife does work. The trend line shows what the growth in married-couple family income would have been had it remained at its 1947 to 1973 rate of growth. Prior to about 1973, married-couple family income grew by 3 percent per year on average and income growth was about the same for families with and without a working wife. However, after the early 1970s, family income growth comes to a virtual halt for families without a working wife, and slowed considerably for families with a working wife. After 1973, married-couple families without a working wife saw their income grow at an annual average rate of just 0.1 percent, while married-couple families with a working wife saw annual average income growth of less than one percent. Thus, even though families are working harder, they are seeing income growth that pales in comparison to the decades prior to 1973.

**Figure 2. Growth in Married-Couple Family Median Income, 1947-2005**

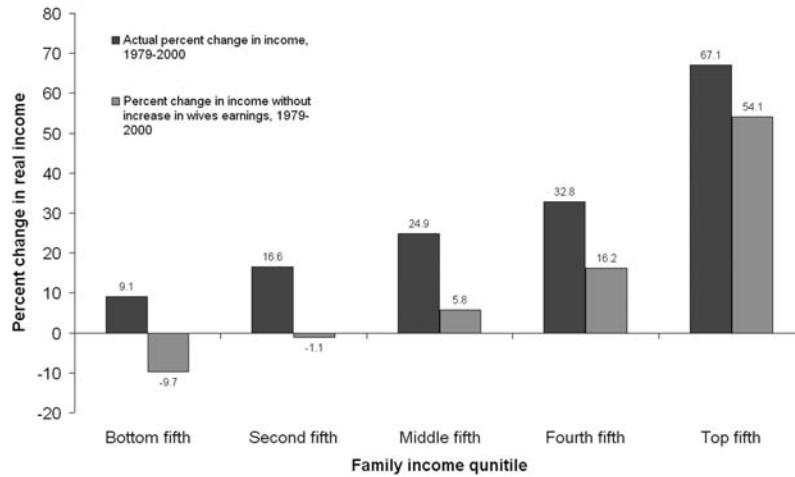


Source: Author's analysis of data from the U.S. Census Bureau, Historical Income Tables, Table F7.

Low-income women are especially hurt by the gender pay gap. While income growth slowed for all families, low-income families are particularly dependent on wives' economic contributions, as this made the difference between falling and slightly rising incomes. Figure 3 shows that if wives had not increased their employment rates, families across the income distribution would have seen much slower income growth and families at the bottom would have seen their incomes fall (Mishel, Bernstein, and Allegretto 2005).

<sup>1</sup> The trends are similar from 1974 to the present for married-couple families with and without children, but the Census provides data back to 1947 for married-couple families without children, so we use this here for comparison.

Figure 3. Percent Change in Family Income, 1979-2000



Source: Mishel, Bernstein, and Allegretto, 2005.

The pay gap is particularly hard on single mothers, who don't have a choice of whether to work or not. A decade ago, welfare reform challenged low-income single mothers to find jobs. Over the next few years, the employment rate of single mothers rose sharply, from 71 percent in 1991 to 82 percent in 2000. Now, not only are single mothers as likely to work as married mothers, but they typically work more hours. Even so, the typical, unmarried mother teeters on the edge of poverty, pulling in barely enough to make ends meet. On top of low wages, service sector workers (mostly low-wage women) less likely than other workers to have paid health insurance or paid leave, further exacerbating the pay gap.

#### *The gender pay gap and the motherhood pay gap*

A key component of the gender pay gap is women's status as primary caregivers. In 2005, the last year for which we have data on mothers, 75 percent of women and 71 percent of mothers aged 25 to 45 were in the labor force.<sup>2</sup> In the 1980s, the sharpest increase in labor force participation occurred among married women with children. However, in the 1990s, single women with children had the sharpest increase in employment—so much so that by the early 2000s, their employment rates are almost equal to those of single women without children.

Above and beyond any differences in productivity characteristics between mothers and non-mothers, at least some of the gender pay gap is attributable to the motherhood pay penalty. Budig and England (2001) find that there is a 7 percent wage penalty for mothers compared to non-mothers, and about one-third of that gap can be explained by differences in experience and seniority. The remaining 4 percent per child may arise from effects of motherhood on productivity and/or from employer discrimination. Joshi, Paci, and Waldfogel (1999) find that in the UK, women with children have lower wages than childless women. Among full-time workers, women who went back to work within 12 months were as well-paid as childless women, but women who did not go back to work within 12 months earned less than both childless women and those who maintained better employment continuity, controlling for productivity-related characteristics.

As women now generally work outside the home, few workers have a stay-at-home spouse or family member to take care of household chores, the children, or the sick or elderly. Yet, employers still often act as though workers have a spouse at home to deal with emergencies or to cope with home responsibilities if the worker is required to work a longer shift than expected. Worker/caregivers need both access to care substitutes, such as enriching and affordable daycare and home health aides to check in on sick or elderly family members, as well as jobs that provide both the

<sup>2</sup> Author's calculations from the Current Population Survey Annual Social and Economic Supplement 2006.

flexibility to be away from work at times and schedules that are consistent with finding care substitutes.

Most U.S. workers do not have the right to take paid leave for anticipated or unanticipated reasons. Since 1993, over half of U.S. workers have had access to anticipated, unpaid leave under the Family and Medical Leave Act (FMLA). FMLA provides up to 12 weeks of job-protected leave to workers when they have a new child or they or a family member has a serious illness. Yet, because this leave is unpaid, many who need it cannot afford to take it. Among those who needed leave, but did not take it, nearly two-thirds reported that they could not afford to take unpaid leave (Commission on Leave 1996).<sup>3</sup> Women were more likely than men (37.5 percent compared to 29.6 percent) to have received no pay during their longest leave (Waldfogel 2001). Studies show that highly-educated women are more likely than less-educated women to have paid maternity leave and that this significantly affects their probability of returning to their employer after their child is born (Boushey forthcoming 2008).

Workers with care responsibilities also need time off for unanticipated events, like a sick child or a parent-teacher conference. In 2006, the last year for which data are available, just over half (57 percent) of private sector workers had access to paid sick leave, about the same as had it in 1979 (Bureau of Labor Statistics 2006). Higher paid workers are more likely to have paid sick days. In 1999, 38 percent of blue-collar and service employees had access to paid sick leave, compared to 81 percent of professional and technical employees and 59 percent clerical and sales employees (Bureau of Labor Statistics 2001). Nearly two-thirds (63 percent) of workers (both full-time and part-time) do not have access to paid sick leave to care for a sick child (Lovell 2004). The share of employees without paid sick leave for themselves or a child's illness rises to 84 percent in construction and non-durable manufacturing, and 94 percent in accommodations and food services, an industry that disproportionately employs women.

Workplace flexibility is another option to help families balance care and work. Employees in a flexible workplace may be able to set their starting and ending hours of work, they might be able to determine when to take a break, or have the ability to leave work for a short period of time and make up the hours later. Providing flexibility does not necessarily cost employers money, but it does require that they allow employees to make some decisions about the workplace. About a quarter of employees report that they have some kind of flexibility (Galinsky, Bond, and Hill 2004, p. 5), while a much larger share of employers, anywhere from about half to most report offering some kind of flexibility (Bureau of Labor Statistics 2002).<sup>4</sup>

Workplace flexibility is a perk more often offered to professional or salaried workers, and categorically denied to less-skilled or hourly employees. As the labor market tightened over the late 1990s, access to workplace flexibility increased slightly, especially for highly sought-after professionals (Galinsky, Bond, and Hill 2004). Many workers are likely to report that their employer has a flexible workplace policy, but in actuality they either cannot use it or they are afraid to ask for it, for fear of repercussions. Eaton (2001), for example, demonstrates the functional difference between the existence and "usability" of workplace flexibility. Other research has documented that usage of workplace flexibility policies is either actively discouraged, or has negative career consequences and results in the stunted career path of "mommy-track" jobs (Bailyn 1993; Williams 2000; Jurczyk 1998). The gap in usage versus existence of workplace flexibility policies may explain why employers are more likely to report they offer workplace flexibility than are workers to report they have access.

#### *Closing the gap*

To close the gap, policymakers must look to change the workplace so it is more hospitable to women and mothers.

No one can be two places at once. Families where all available adults are at work, as is the case in most families, cannot simultaneously provide care for children, the sick, or the elderly. We cannot continue to rely on private solutions to work/life problems. There are policies that can help families address their need for care, such as child care or paid time off, but critically, workers need Congressional action to make workplaces adapt. Most full-time workers do not have a full-time caregiver at home. Increasingly, workers need workplaces that are flexible, that recognize workers often have complicated care routines. Workers also need stability; they need sta-

<sup>3</sup>In 2000, 62.3 percent of men and 61.2 percent of women were both covered and eligible for FMLA (Cantor et al. 2001). Overall, the use of leave under FMLA is quite small: in 2000, only 1.9 percent of employees took leave under FMLA, up from 1.2 percent in 1995 (Waldfogel 2001).

<sup>4</sup>See Golden (2003) for a review of employer surveys.

ble work schedules, where they have access to paid time off for the unexpected that comes along with caring for themselves and their families.

There are also clear steps Congress can take to limit discrimination against women in the workplace. If a woman doesn't know how much her male colleagues earn, she may not know she is being discriminated against. Prohibiting employers from limiting the ability of workers to share their salary information, or retaliating against them in any way would be an important next step. Women need to know the true—i.e., male—value of the jobs that they do.

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Chairman MILLER. Dr. Hill, if you might, would you walk us through again the situation after 1 year of graduation that your report addresses?

Ms. HILL. Certainly. One year after graduation, we find a 20 percent gap for women making 80 percent as much as their male counterparts. We are looking—you heard a lot of different numbers about the pay gap today. They are all—we are talking about different populations, different age groups, different educational levels.

This group that we are looking at is taken from a U.S. Department of Education Federal survey brought by Baccalaureate and Beyond data set. It is graduates from college 1 year after graduation and then 10 years after graduation. We looked at people who graduated in 1999, 2000, and they were interviewed in 2001. We also interviewed people—they interviewed people in 1999 who graduated in 1999—1992, excuse me, 1992 and 1993, and they were interviewed in 1994 and in the year 2003. So we looked—this is a particular group; it is a group where you would expect to see fewer differences. They both invested in college. Women actually do slightly better in college than men do, similar but a little bit higher in terms of GPA, and that is true in every major including math and science. So they are doing slightly better in college, they are making the same investments, and yet 1 year out we are seeing a very large difference.

There is—part of that difference can be explained by the choices that women are making. I think that everyone would agree that part of the difference in the pay gap is that women make choices. They choose to become social workers or teachers and in that situation are choosing to have the kind of—earn less, to have—to place themselves in economic insecurity in many cases. However, not all of that difference can be explained.

A quarter of that gap right out of college among this population, that is 5 percent difference, cannot be explained. I know 5 percent doesn't sound like very much, but 10 years down the line we see that that unexplained portion of the pay gap increased to 12 percent. That is 10 years after. And this is only among full-time working men and women. We are not including mothers who left the workforce. We don't include part-time workers. We are only talking about those who are working full time. And we are accounting for



all the different occupations and categories that we—that we were able to do. Like when we got our results, we took a look at the literature, and we looked at many articles in American Economics Review and Journal of Labor Economics, and we found that the majority of those articles agree that a portion of the pay gap—and people disagree about the portion—but people agree that we just can't explain it. And I think that suggests that something else is going on. We have a list in our—

Chairman MILLER. Well, I guess my concern is that the suggestion is—and I want to make sure that I am interpreting this right—but the suggestion is sort of right out of the starting blocks here, even in some cases you suggest where women perhaps have a higher GPA, and the same age and going into the same professions, the process begins. It is one thing when people say after years of experience, and where did you work before, and they transfer all of that in, there is, in theory, a rational way of making that decision. But at the beginning of the process, it seems to me that a lot of that is whittled out in that situation.

Ms. HILL. That is exactly right.

Chairman MILLER. I guess that is what I find kind of stunning about the remark and also the theory that these are new people going into theoretically an enlightened marketplace that is now aware of these issues, but it doesn't seem to be changing. It may have changed in the magnitude to some, but the fact still remains, and I just am trying to get a correct characterization of what it is people have heard over the last 24 hours about this group of women.

Ms. HILL. That is right. And I think that it is interesting that it is a group of women who are in their twenties and thirties, group of men and women in their twenties and thirties. We only included people in our analysis that graduated before the age of 35 just to keep it so we were talking as much as possible about like and like.

Chairman MILLER. And you are comfortable that is what you did?

Ms. HILL. Yes.

Chairman MILLER. Okay. Ms. Farmer, in your situation you are dealing with likes and like, except the fact of male-female. In terms of job description, job responsibilities, performance, you were still paid less.

Ms. FARMER. Correct.

Chairman MILLER. And that is by the standard set forth by your employer, in this case Wal-Mart?

Ms. FARMER. Correct.

Chairman MILLER. So then when you were taking your experience, your skill and your knowledge and training and others for that same job, you were paid less—

Ms. FARMER. Yes.

Chairman MILLER [continuing]. Than they started at when they started in your job that you trained them for.

Ms. FARMER. Yes.

Chairman MILLER. Is there something I am missing here? Because, I mean, it sounds like likes for likes here, I mean the extraneous situation going on here. That is why I guess you are in court.

Ms. FARMER. I know that getting to the salaried position that I wanted, you don't really question at that point in time. You are getting \$28,000 instead of \$30,000, you are just pretty happy you have the position.

Chairman MILLER. Let me understand something, because one of the things in the Paycheck Fairness Act is a question of whether or not an employer can punish employees for sharing information, apparently not that unusual of a situation whether it is a law firm or whether it is a retail outfit. This information that you came across was because of your position. This wasn't a question of you had access—I mean—well, let me ask you, were people sharing this information, or you knew this because of your position?

Ms. FARMER. Both.

Chairman MILLER. So people would talk about what their salaries were, what they started at and back and forth?

Ms. FARMER. Yes.

Chairman MILLER. Okay. So that was available. And there were not any repercussions taken for that activity with that employer?

Ms. FARMER. No.

Chairman MILLER. Okay. Well, that is helpful to know. There is some suggestion that it may be more prevalent in professional occupations. I don't know if one of you want to comment, but there is some suggestion it is a bigger problem in professions about sharing pay, the fact that you can see columns in the weekly—you know, in Newsweek and Time or Business Week suggesting how you might want to handle this so you don't get fired. Actually, it was just in a recent column, I think, in Business Week. So apparently you do it at some jeopardy in today's workplace according to the business journals.

Ms. FARMER. It was considered gross misconduct.

Chairman MILLER. To share pay information?

Ms. FARMER. Yes, it was. So it was never anything I would say, hey, what do you get paid?

Chairman MILLER. They suggest you don't actually in the column. That is not a good way to begin. Thank you very much.

Mr. McKeon.

Mr. McKEON. Thank you, Mr. Chairman.

Dr. Hill, in that study, the 1 year out of school where they were already having a difference in pay, is that comparing the same jobs?

Ms. HILL. I think the point—and like all researchers, we have to use categories of jobs that include many different kinds of jobs in the same thing, in the same category. But I will point out the categories we use are fairly standard categories. We have a limited sample size.

Mr. McKEON. Does that mean no, it is not comparing the same job?

Ms. HILL. They are not exactly the same jobs. They are very similar. But I also want to point out 1 year out, when we say medical professions, for example, we are not talking about doctors and nurses—

Mr. McKEON. I was just trying to find out if we were comparing the same job.

Ms. HILL. Because they just graduated within 1 year from medical professions, they are all going to be——

Mr. McKEON. Would nurses in the same field be paid the same whether they were male or female?

Ms. HILL. What we found is that—these are all going to be 4-year college graduates—you are correct that they are not identical jobs. They are similar.

Mr. McKEON. Did you do any study on comparable jobs, on identical jobs?

Ms. HILL. There is one study by Claudia Golden that I would recommend which looks at——

Mr. McKEON. What I am really trying to find out, it seems to me that what we are talking about is the same pay for the same job. And I am trying to make sure that that is what we are really talking about, instead of saying that there is a big difference because the jobs are different, you know, because I think probably we would have agreement saying that there should be equal pay for equal jobs, and I am just trying to find out if your study really showed that.

Now, I would like to ask another thing, too. Earlier testimony said that there were 6,000 businesses that are owned by women. Has anybody done a study to know if women who are heading up companies do a better job of paying equal pay for equal jobs?

Ms. HILL. That is a good question. I don't know if that particular study—I can certainly get back to you on that.

Mr. McKEON. That would, I think, be interesting to know.

Ms. BOUSHEY. Can I comment on the jobs and the question you are asking?

Mr. McKEON. Let me see if I have time after this question. We can come back to that.

Have you had the opportunity to review the study by the American Association of University Women that Dr. Hill presented? Would you care to comment on the methodology employed in that study, and do you think it presents an accurate picture?

Ms. FURCHTGOFF-ROTH. Well, I think it is clear that a lot of work has gone into this study. I think that one important variable it omits is accumulated lifetime work experience, and that is why you find pay gaps diverge over a 10- or 20-year period, because many women take time off to look after their children. Eighty percent of women in America have children, and some of them cut back their hours or choose jobs that are more family-friendly, that involve fewer hours. Full time is any amount of hours over 35 hours per week, and you can work full time 35 hours a week, and you can work full time 60 hours a week. It is natural people who work full time 60 hours per week get paid more than those who work full time 35 hours per week.

I think what is a significant difference is the choice of industry and occupational categories. And I have the tables with the regression analysis right here on pages 42 and 44. And the occupations chosen are, for example, you can take one that is finance insurance and real estate, and industry. There is no reason that a male—if there is a male who goes into, say, investment banking on Wall Street, that would fit into finance insurance and real estate. Say a profession that is more female dominated, real estate sales, say

real estate sales in Alabama, there is no reason that that female and that male should get paid the same.

This is a very broad industry category. There is also regional differences that aren't accounted for. There isn't any reason that people in the same industry should be paid the same. I can go down this list of industries. Personal hospitality services, entertainment and recreation, you can get someone in entertainment and recreation, you can get someone in Los Angeles in the movie-producing industry who strikes it rich with a movie, and then you can also get somebody who does, you know, singing somewhere else and who is unsuccessful. There is no reason that people have to get paid the same in the same industry and occupation.

There is a wide variation of jobs, even within investment banking, for example, depending on how successful you are or what kind of position you have in the investment banking industry. So in order to claim wage discrimination, you need to have like-for-like, precise categories of jobs, the way Ms. Farmer did. She found that men who were doing the same job as her were paid more. That is a clear case of discrimination. But a male and female in one occupation or industry, there is no case for wage discrimination.

Mr. McKEON. That is how it sounded like to me, that hers was pretty clear. If you moved up to the—LTE?

Ms. FARMER. CLE.

Mr. McKEON. Manager. And you were paid \$28,000, and men were paid \$30,000.

Ms. FARMER. Correct.

Mr. McKEON. Did someone have a book that sets the pay? Or that is probably what you will try to find out in court, if there is a book that sets the pay that if a woman achieves this job, she gets paid \$28-; if a man gets this job, he gets paid \$30-. Or did they have like a range of \$28- to \$30-, and they just arbitrarily put women at the lower end and men at the higher end. I think we would all agree that that is discriminatory, and that should not be done. I am just trying to find out if these other things—equal pay is for the equal job.

Mr. Chairman, I see my time has expired. Thank you.

Mr. KILDEE [presiding]. Thank you. The gentlelady from California Ms. Woolsey.

Ms. WOOLSEY. Thank you, Mr. Chairman.

As a human resources professional for 20 years before I got here, and I have been here 15 years, so it has been a while, I assumed that employees did talk to each other about their pay, and that if there was a problem with that pay, it was probably something that we—and if we had to explain it, believe me, it was probably an unfairness in there. Because workers know who are the high performers, they know who actually has brought more to the table than others. But with fair pay policies, actually there is very little controversy over what an individual gets paid.

And to go along with that—and this relates to you, Ms. Farmer—in the 1970s when I was this human resources manager, it was my responsibility to put together the pay schedules and pay levels and pay ranges for our company, which was a high-tech manufacturing company of telecommunications equipment. And I was a member of the executive staff, and I was the only woman—female member of

the executive staff. And every year I brought to the executive committee the ranges for the upcoming year.

Well, when I first started comparing the salaries, it was very clear to me that the assembly supervisors in this manufacturing company earned—they were like two steps below, two levels below the test technician supervisors. So I looked at it and compared it with the outside world and what was going on inside the company.

So year one I recommended to bring the assembly supervisors up to the test technicians because it wasn't the same job, but it was equal value. The test technicians had small groups, they had technical groups, small. The assembly managers had big groups, but their jobs were absolutely as important when you valued one against the other.

First year I didn't get them to equal. I got them one step below instead of two steps. The second year I argued and argued and argued, never said anything about gender, argued the point of value; left the room, we had a break; came back into the room, and I heard the president of the company explaining to the rest of the men—you won't be surprised about this, Dale—the rest of the men on the committee the reason she is fighting so hard is the assembly supervisors are women. Indeed. That year they—and then the men saw how—what they were doing, and they brought that range up also.

It is too easy to say these are women's jobs, these are men's, and they aren't valued the same. That was in the 1970s. So I am surprised that we haven't come further than that.

So what I wanted to ask you, Ms. Farmer, is who advocated for you? Did you have anybody in your company that helped you along through the process of challenging the pay structure?

Ms. FARMER. With my knowledge and how to go forth with it.

Ms. WOOLSEY. Was there anybody in the human resources that could help you? And this is modern day.

Ms. FARMER. Right. Wal-Mart has a procedure that you would go through of speaking to your assistant manager about it, the store manager, the district manager, HR. You go on from there.

Ms. WOOLSEY. And then you got your pink slip.

Ms. FARMER. Yeah. I did get my pink slip.

Ms. WOOLSEY. I am sorry about that, and I hope that you prevail in your suit, believe me.

And I want to just talk a little bit now about what we are talking about with Ms. Boushey when we talk about bridging work and family. I was hoping you would talk about the Balancing Act, which I will introduce this year, which is really an omnibus big, big bill to bridge work and family. And we had 59 cosponsors in the last Congress. We are going to do it again.

The Balancing Act does provide for paid family leave, it enhances child care, it makes universal preschool available to all children, and it provides for after-school programs, and it also encourages more flexible workplaces with telecommuting, et cetera, et cetera.

It is very, very clear to me and many of my colleagues that unless we bridge work and family, it is kids that are going to be the ones left out because parents have to put food on the table. Quite often they can't even get to the table to eat it with their kids.

So I look forward to working with you on that, and we are going to have a hearing on my subcommittee, the Workforce Protection Committee, and the Balancing Act will be a part of it.

Thank you, Mr. Chairman.

Mr. KILDEE. Thank you.

The gentleman from Louisiana Mr. Boustany.

Mr. BOUSTANY. Thank you, Mr. Chairman.

This is a very, very important issue in front of us today, and I can tell you it is an issue that I care deeply about. But I have some real concerns about the methodology in the study that you have alluded to, Dr. Hill. And first of all, you could have provided the study to us for our review beforehand. I think it may have made the debate and discussion more substantive. So perhaps for future reference, that could be something—

Ms. HILL. I do believe we did make the report and summary available.

Mr. BOUSTANY. I did not have it in my packet.

Ms. HILL. I am sorry.

Mr. BOUSTANY. One reason I point out my concerns about the methodology is this: As a medical doctor who is very well familiar with the medical education system and the postgraduate medical education, when a student graduates from medical school, they are accepted into an internship or residency, and, per institution, all get equal pay in that first year by institution. It is not even broken down by specialty, where perhaps surgeons may be working much longer hours than internists or others. They all get equal pay by institution. And so for that reason I think—and you cited that example earlier in your answers to questions—I think that raised an antenna for me, and I have concerns about the methodology. So, Ms. Roth, I probably mispronounced your name—

Ms. HILL. May I respond to those questions?

Mr. BOUSTANY. Yes.

Ms. HILL. I would like to point out that when we made our findings, we took a look at the literature in economics, we went to the American Economics Review, we went to the Journal of Labor Economics, and we read—and we have those all listed in this report. And I want to point out that across the board they find the same findings that we came across, that women are being paid less, that that—when we control for all the factors, the kinds of jobs, the field of study, the hours worked, parenthood, demographics, region, age, when we compare and look at all those factors, not only do we make this finding, but many, many other economists have made this finding. And if you look at chapter 4, you will see a list of some of the other journal articles that made the same kinds of findings.

Mr. BOUSTANY. I am just stating what the facts are in health care, and I point out that there is potentially an error in the study with regard to health care.

Ms. HILL. I believe, sir, that that is one example. Now there are other examples.

Mr. BOUSTANY. That may be, but we need to have facts here if we are going to legislate. I think that is critical.

Ms. Furchtgott-Roth, have you had an opportunity to review that specific study? And could you comment on the methodology, and do you think it presents an accurate picture, that specific study?

Ms. FURCHTGOTT-ROTH. Yes. I have had—I have had an opportunity to review the study, and obviously a lot of work went into it, but I think that the main flaws are, first of all, that it doesn't account for accumulated hours of lifetime work. And many women take time out of their work life to look after children, and also they cut back on their hours after they have children to have more family-friendly hours.

Secondly, it uses very broad occupational categories. And again, I can read from page 42 where it lists occupational categories, administrative, clerical support, business and management, editing, writing, performing, engineering and architecture, research, science and technology. Within each of these occupations, those are very broad types of different jobs. And saying that two people in these broad occupational categories are not paid the same is not evidence of discrimination because you have to look at what job they are doing; are they in the same firm; are they not in the same firm?

I would also like to add, there are many studies in the economic literature that find very small or nonexistent gaps. For example, Marianne Bertrand and Kevin Hallock, *The Gender Gap in Top Corporate Jobs in Industrial Labor Relations Review* shows no difference in the pay of men and women in top corporate jobs, adjusting for a wide variety of factors. This is looking at the same-sized firms, looking at the experience they have had, looking at their age. Or Charles Brown and Mary Corcoran, *Sex-Based Differences in School Content and the Male/Female Wage Gap in the Journal of Labor Economics* shows tiny, tiny differences. And the June O'Neill study in the *American Economic Review*—by the way, it is the *American Economic Review*, not the *American Economics Review* is the title of the journal. And these are peer-reviewed studies, and they show very, very small gaps. So it is not clear that the majority of the economics profession, the literature accords with Dr. Hill's findings.

Mr. BOUSTANY. Well, again, I just simply point out that I believe some of the findings, as best I can tell, and based on your statements, Dr. Hill, with regard to health care, particularly medical school graduates—

Ms. HILL. Yes. May I answer that, please, sir? When medical school graduates—remember, we are talking about people from 4-year undergraduates, 1 year out. They are not graduate students.

Mr. BOUSTANY. I am talking about medical students who go on to medical—

Ms. HILL. That is another population.

Mr. BOUSTANY. No, no. Undergraduates who are pre-med students go to medical school if they are accepted. You have to compare apples to apples in this. I do know that upon graduation from medical school, when they do enter employment, when they do enter employment, they enter a residency program. And by institution every single resident within that program gets the exact same pay.

Ms. HILL. That is wonderful for that example. And I think that there are examples—

Mr. BOUSTANY. You used the example earlier to talk about the wage gap, and I point out that error. So I think it is important that we understand accurately the methodology being used in the study

if we are going to base our decisions on legislation using this study. I want to get to the heart of the matter. I want to understand the problem, and I want to make sure that we are making the right decisions as we go forward. And that is simply the case I am trying to make. And my time has expired. Mr. Chairman, you have been very generous. Thank you.

Mr. KILDEE. Thank you, Doctor. The gentleman from New Jersey Mr. Andrews.

Mr. ANDREWS. Thank you. I thank each of the witnesses for outstanding and very illuminating testimony.

Dr. FURCHTGOTT-ROTH—

Ms. FURCHTGOTT-ROTH. Excuse me. I am not a doctor. I don't want to pretend to be one.

Mr. ANDREWS. I am sorry, Ms. Furchtgott-Roth. You speak with authority, and I thought that you were at that level. I am sure your pay is equal to what it would be if you were a doctor.

Ms. FURCHTGOTT-ROTH. Well, I am sure that all of us are worth a lot more than what we are paid.

Mr. ANDREWS. I am sure.

One of the points that you make is that a flaw—a perceived flaw in the study Dr. Hill talks about is they don't account for hours of accumulated work in the lifetime. But how would that explain the differential for people who are 1 year out of college? Is it true that people that are 1 year out of college would have about the same hours of accumulated work in the lifetime? How do you explain the differential between men and women just 1 year out of college then?

Ms. FURCHTGOTT-ROTH. Well, I think that the differential between men and women 1 year out of college can be explained by these different choices of occupations and industries. And I can read them again, but it is easy—

Mr. ANDREWS. If I may, this study accounted for that. They accounted for that differential and still found a 5 percent difference after 1 year for which there was no regression analysis explanation from one of the variables. So what is the explanation for that 5 percent?

Ms. FURCHTGOTT-ROTH. The explanation for the 5 percent is they are not looking at two people in the same job. And so, for example, to take one category, finance insurance and real estate, if you have more men that go into investment banking and more women that go into being bank tellers, for example, or lower positions—

Mr. ANDREWS. But these are college graduates. I don't think many college graduates become bank tellers as opposed to investment bankers. Wouldn't they be more likely both to be investment bankers?

Ms. FURCHTGOTT-ROTH. If you take the highest-paying jobs on Wall Street and the lowest-paying jobs for graduates, these jobs are all contained in this category.

Mr. ANDREWS. Is there evidence that shows that a disproportionate number of men go to Wall Street and a disproportionate number of women go to lower-paying financial services jobs?

Ms. FURCHTGOTT-ROTH. There is evidence that a higher percentage of men go to investment banking jobs on Wall Street, yes.



Mr. ANDREWS. I would like you to submit that for the record if you would, that would show that.

And perhaps that leads me to one of my other lines of questioning. In your testimony you talk about variables that explain this vast and chronic differential between the pay of men and women, and you talk about things like differences in education. I can understand that if someone has a Ph.D. versus having an associate's degree, there would be a difference. But how about something like job title; isn't that an awfully subjective variable that might be explained by inherent cultural discrimination?

I will give you an example. I have seen—and this is just anecdotal. But I have seen some circumstances where a man who keeps track of his fellow employees and manages the budget and does the purchasing for an organization is called the executive vice president for administration, but a woman who does precisely the same function is called an office manager. Now, isn't it—I mean, so doesn't job title really mask some discriminatory subjective attitudes that can't be quantitatively measured the way you do?

Ms. FURCHTGOTT-ROTH. Job titles vary by firm. Each firm selects its own portfolio of job titles.

Mr. ANDREWS. Right. And who does the selection of the titles?

Ms. FURCHTGOTT-ROTH. Right now each individual firm selects the job titles.

Mr. ANDREWS. The boss, the boss does.

Ms. FURCHTGOTT-ROTH. The boss selects the titles.

Mr. ANDREWS. Do you agree or disagree with the proposition that there is a disproportionate number of men in executive boss positions relative to women in large business organizations? You think that is true?

Ms. FURCHTGOTT-ROTH. There are more women—there are more men at the top of companies.

Mr. ANDREWS. So the men are creating the job titles, and the job titles are being used as a criterion to do the analysis that explains the wage differential?

Ms. FURCHTGOTT-ROTH. The job titles in different firms reflect different—different duties within that firm. So you would have—you are—supposedly the way things work is two office managers in the same firm, a male and a female, should be paid the same. An office manager in one firm isn't necessarily paid the same as an office manager in another firm.

Mr. ANDREWS. But, of course, if the person who defines the term "office manager" brings a certain set of preconceived notions about the limitations and abilities of men and women, you may be creating a self-fulfilling prophecy where the woman is overpaid as a result of that discriminatory categorization, wouldn't you?

Ms. FURCHTGOTT-ROTH. I think that what you find is, especially in a time with 4.4 percent unemployment, there are so many job opportunities that someone who is labeled with a lower job title finds many other opportunities, and employers right now have to fight hard to keep workers. And people who find they are not paid the same are likely to find other jobs. For example—

Mr. ANDREWS. I want to talk with Ms. Farmer for a moment, if I could have a couple more seconds. I thought that her story was so symbolic of stories that I have heard from women that I have

known and women in my family, that women train the people who then supervisor them and who make more money than they do.

I am just curious, how many women have seen that kind of situation in their life, if they could just raise their hand, that are in the room.

Yeah. Okay. I yield back the balance of my time.

Mr. KILDEE. Thank you.

The gentleman from Minnesota Mr. Kline.

Mr. KLINE. Thank you, Mr. Chairman.

I appreciate that scientific survey from Mr. Andrews. Unfortunately we don't base our—at least we shouldn't be basing our decisions on legislation based on that sort of scientific survey. It was interesting though. Thank you for doing that.

Mr. ANDREWS. You are welcome.

Mr. KLINE. We can go several ways with this. I have appreciated the discussion a lot about the methodology in various surveys, and Dr. Hill has explained hers several times, and Ms. Furchtgott-Roth has challenged perhaps some of that.

It is important that we understand the methodology that we have. We have surveys that we can count on, and it seems to me there is still quite a bit to discuss there. But I want to move to another area that is of some concern here, and that is a type of discrimination that comes in hiring that is sort of under the table, if we could. And I am thinking of an example that is starting to occur across the country right now, because we have members of the National Guard who have been employed and deployed in ways that they weren't expected to be. And so you have the sort of a choice where you have got an employer, looking at somebody who is coming to work, one potential employee is a member of the National Guard, one isn't, and the employer is unofficially but nevertheless asking them questions. Well, who would I—who do I want, somebody who is going to be gone 18 months every 4 or 5 years or somebody who is not? And I know it is something we have to guard about in all sorts of discrimination issues.

And that brings me to this bill, I think it is H.R. 1338, the Pay-check Fairness Act. And, Ms. Furchtgott-Roth, you said that you thought that such an act would increase the cost of hiring, and I am afraid it might lead to some other things. Could you explain that and what you think might follow from that? Is that correct? Do I have that right?

Ms. FURCHTGOTT-ROTH. Right. Yes. Because if employers have to go by particular guidelines and, say, the guidelines—I would imagine the guidelines would require higher pay in a particular occupation than is being paid right now, I would assume the guidelines would not lower anyone's pay, then the employer would face a higher cost for a particular class of workers. And if he has higher pay for that class of workers, he has the choice of hiring fewer of those workers or getting some kind of technology, such as we see in these supermarkets where you have self-service checkout rather than cashiers.

So people aren't just going to sit and take higher wages imposed on them by the government. They are going to adjust in some way, and that means there will be fewer jobs available for those types of occupations. You get the same situation increasing the minimum

wage where people who cannot produce, say, more than \$5.15 or \$6 an hour just don't get hired. We see that situation in other countries around the world.

Mr. KLINE. So in this case, the increase of cost of hiring wouldn't have any gender implications. It is simply a choice of—in your example of an automation, for example, instead of hiring employees. It is not gender-specific.

Ms. FURCHTGOTT-ROTH. Right. In the minimum wage example, yes. But under the Paycheck Fairness Act, female-dominated occupations had their salaries artificially raised, then you would find that women suffered because fewer of them would have been hired.

Mr. KLINE. Yes. You talk about guidelines. I want to jump to another question. I have written so many notes here, I am not sure that I have got this right. But the legislation we have been discussing, this Paycheck Fairness Act, calls for the Department of Labor to establish voluntary guidelines for employers to compare wages and pay scales. How do you think that would work? What would be the effect of that?

Ms. FURCHTGOTT-ROTH. I think once the Department of Labor had established these voluntary guidelines, there would be pressure on companies through different avenues to stick to these guidelines. For example, the Federal Government would have the power, the President would have the power to say the Federal Government only contracts with those firms that stick with the guidelines. There might be other groups such as—other groups such as the Rainbow/PUSH Coalition or some other groups that would say that consumers should not buy products from firms that do not follow these guidelines. So it would be pressure on companies to follow the guidelines that were set out; even though they would come in as voluntary, there would be pressure to abide by them.

Mr. KLINE. I see.

Mr. Chairman, I see my time has expired, and in a futile effort to encourage my colleagues to stay within the limit, I will yield back.

Mr. KILDEE. Thank you, Mr. Kline.

The gentleman from Pennsylvania Mr. Sestak.

Mr. SESTAK. Thank you, Mr. Chairman.

Dr. Hill, you said that—in your testimony that women who go to highly selective colleges actually earn less than those men who go to minimally selective colleges. Why is that, and what is the difference in the percentage?

Ms. HILL. There is a sizable difference in the earnings of women and men, and it is such a large difference in the earnings of women and men that it actually is larger than some of these other differences we see among, for example, in college selectivity.

Yes, college selectivity makes a difference in earnings for both men and women, but it makes such a minor difference really when you compare the gender difference. The gender difference is so much larger than any of the other differences that we see. So when women are—there are many factors that affect people's pay, and we looked at really a very comprehensive list of those factors to try to uncover discrimination.

It is very hard to measure discrimination directly. I think it is a very challenging problem because people aren't going to tell you

they are discriminating, and most people don't know they are discriminating when they do so.

With your permission, sir, I wanted to point out one study that was done by Claudia Golden where she looked at worker stress, when they turn to something called blind auditions. When they turned and changed to—I think it was in the 1980s—all the orchestras changed so you couldn't see who was playing the instrument, and suddenly women were getting new jobs they had never gotten before, and the number of women in orchestras shot up. That is, I think, a very interesting case.

We can't do that in most employment situations because you know someone is a man or a woman when you look at them or when you hear their voice or you see their name. So it is not easy to have blind auditions in the whole economy.

I am sorry if I was too long in that answer.

Mr. SESTAK. Doctor, I wanted to ask you a question. I was taken by your testimony about a more hospitable workplace. I come from a background where we didn't have women at sea 35 years ago until when I had to carry a battle group off Afghanistan. The first night off Afghanistan, there was a young 27-year-old woman pilot, F-18, who in the middle of the night, the first night we were off there, dove down from 20,000 feet without permission, which she was supposed to ask, to 3,000 feet to strafe, after four special soldiers had been killed, to save the others, to get them away because she couldn't use guided missiles. They were just too close to the Taliban.

So I have watched this real progress through the military over the years. Now, the challenge for us, as I was leaving the military, was how do we keep her in? How do we let her leave the military, have her child and come back without losing, because she is a wanted asset? How do we give them—and as we do, we are about to deploy, but we want them to stay in, so we let them not deploy until later.

So I am taken by some of the suggestions that you have in here because of trying—just because I have seen it work, and I have seen us come to grips with having this valued human capital be retained.

Can you talk a bit about what I see are about the three major issues you have here, about how to make the place more hospitable, and why it is a good way to approach? At least that is my take from my experience.

Ms. BOUSHEY. Thank you. I will. That is an excellent question.

I think one of the things—just to start, one of the things I found most interesting about Dr. Hill's research is women do so well in school. They do better than men in most sciences and math and across the board in terms of majors. And when they get out, they are very valuable employees, and your example there is very illustrative of that. And it is amazing that employers aren't doing more and that Congress isn't doing more to keep all of these very talented women in the labor force. And, of course, a lot of it does have to do with the fact that women do take on the primary responsibility for caretaking within the home.

There is a number of ways to sort of get at helping them to be both good parents, but also to be good workers. One, of course, is

to encourage men to take on more of that responsibility, and a big piece of that would be to make sure that every worker, not just women, but that every worker had access to paid leave both when their kid gets sick and also paid leave for maternity. Yesterday was a very big day on that issue. Washington State became the second State to pass legislation for paid family leave for pregnancy, 5 weeks, \$250 a week. And that is great, and it is gender-neutral so that both men and women have access to that kind of leave. So that the fabulous fighter pilot, she can take off some time, but then her husband can take off some time, and that would make it easier for her to take go back to work and to be good at both.

Paid sick leave is, of course, another pressing and important issue. Two-thirds of workers do not have the right to take a paid day if their kid gets sick. That is a lot of people. I am sure all of us in this room have paid sick days, but there is millions of American workers, most of them are at the bottom end of the labor force, the bottom end of the income distribution who don't have that right. That can make keeping your job very, very difficult, because if your kid gets sick, most people will say, well, I am going to take him to the doctor, I am going to stay home. That is more important than your job. But your job is important, too, to help families make ends meet.

And then third, and I think this is very important, is flexibility. Your example of the fighter pilot, that is where I can't imagine what the flexibility would look like. But for many jobs here in the United States, employers could offer some flexibility to workers and not just the high-end workers, across the workplace.

The U.K. has passed a very interesting piece of legislation which they call a soft touch flexibility where the law says that every employee has the right to ask for flexibility. They don't have to get granted it, but if they ask, the firm has to come up with a good reason why they can't have some sort of flexibility. That might be a really good start here for encouraging people to think creatively, both employees and employers working together.

Mr. SESTAK. Thank you. It is interesting. The first two you mentioned we actually have today in the military.

Ms. BOUSHEY. Of course. Yes. And universal day care.

Mr. KILDEE. The gentlelady from California Mrs. Davis.

Mrs. DAVIS OF CALIFORNIA. Thank you, Mr. Chairman. Thank you to all for being here.

I wanted to go back to Congresswoman DeLauro's legislation for a second because I think embodied in that is kind of the criticism that if we move forward, and we keep better records, and we enforce the law, that we provide these guidelines, that somehow women wouldn't be hired. And I think, Ms. Furchtgott-Roth, you addressed that. I wanted to ask if you would respond to that for me, and then the others as well.

It seems to me that we run into this when we talk about minimum wage as well, that somehow workers aren't going to be hired. Have we seen evidence of that particularly? And what do we know about the impacts that that would have? Did you want to respond to clarify? Because the other issue is under the law, people can't discriminate. So would employers actually be acting illegally by not

hiring women if we move forward with these kinds of regulations? Do you think that would actually happen?

Ms. FURCHTGOTT-ROTH. Well, I think that what would happen would be that firms would change their technology, and we definitely do see that in Europe where there are not—where low-paid employment isn't allowed. So there are certain jobs that just don't happen in Europe; for example, valet parking or baggage carrying or something like that. There is a paper by Harvard professor Alberto Alesina that documents a lot of this. And so you find that basically technology changes, and these kinds of jobs disappear. The result of this is, if you can't get a low-paid job, you are stuck unemployed. And you not only have 10 percent unemployment in some countries of Europe, but half of these people have been unemployed for more than a year. They just cannot escape the unemployment pool. I am not suggesting that on this level it would happen yet.

Mrs. DAVIS OF CALIFORNIA. Can you think of examples here where women were not being hired because we have put in place regulations such as this?

Ms. FURCHTGOTT-ROTH. Well, we haven't put in place the regulations, so I cannot cite the examples. But whenever the cost of hiring someone goes up, people avoid—firms generally avoid hiring that kind of person. But if women were really underpaid, if they were really paid less for the same work, 77 cents on the dollar, then some enterprising firm could just go out and hire all women and get ahead of the competition. We just don't see that happening. So it just goes beyond belief to think that women are systematically doing equal work and only being paid 77 percent of what men are being paid.

Mrs. DAVIS OF CALIFORNIA. Dr. Boushey or Dr. Hill, would you like to comment?

Ms. BOUSHEY. It is also amazing to me that women do so well in school, that women now outnumber men on college campuses, and yet somehow the day that they leave school and go into the workplace, that is the day they decide to stop achieving or they stop asking for things.

I think that we really have to look at the counter factually here. It seems there is something systemic going on in the labor force that is creating this situation. You know, we passed the Equal Pay Act in 1963. Since then we have seen significant and profound changes in women's labor force participation rates. It is not the case that women are now less likely to be employed today or less likely to be employed in higher-paying occupations. It is actually quite the opposite. As the courts and the legal system created more opportunities, women were out there and took them. And now we have a case where it is the case that most children grow up today in a family where all of their parents are at work, a lot of which is because of the kind of legislation that we are discussing here today.

Mrs. DAVIS OF CALIFORNIA. Dr. Hill, quickly.

Ms. HILL. I simply wanted to add that that is right. If we look at what the Title IX and Title VII—the kinds of achievements that have been gained, what we see is that when those laws passed, we saw many more women entering the workplace. We actually saw

actually an economic boom at that time. We did not see the economy struggle. We saw that the economy actually did well. If you look at State differences, you see some of the States that have the most protective legislation, like California, for women and for men who want to parent and take time out of the workforce when they parent, those States actually have very robust economies relative to some of their other peers. So I think a State-by-State analysis could be very helpful.

Ms. FURCHTGOTT-ROTH. But the legislation that was passed was equal pay for equal work. No legislation was passed that set wages for different kinds of jobs. The only country in the Western Hemisphere that has that is Cuba.

Mrs. DAVIS OF CALIFORNIA. But the idea that somehow people would avoid hiring women because they would have to keep data, I think that seems to be embodied within some of the criticism. And obviously we would need to look carefully at that legislation. And I think we would need to move forward with that.

I had some more questions, Mr. Chairman, but my time is up. Thank you very much.

Mr. KILDEE. The gentlelady from Hawaii Ms. Hirono.

Ms. HIRONO. Thank you very much.

The underlying law that we are talking about, the Equal Pay Act, does focus on equal pay for equal jobs. We are not talking about comparable jobs. That is a whole other issue. So I am interested in focussing on the enforcement of the Equal Pay Act because the way the act is, although it is really for a very basic thing, equal pay for equal work, it is an act that is very hard to prove. And that is what the Paycheck Fairness Act is trying to do.

So, for example—correct me if I am wrong, Ms. Farmer—even in your lawsuit, all Wal-Mart has to do is to say that their pay differential is for any other factor than sex, which is a very, very broad defense that they can assert; isn't that correct?

Ms. FARMER. Yes.

Ms. HIRONO. Okay. So under the Paycheck Fairness Act then, one of the provisions of the act would be to say that you are not going to be—that the employer has to come up with more than just, you know, a differential based on any other factor than sex.

Also, isn't it also reasonable that this act would prevent retaliation such as a kind of retaliation faced by Ms. Farmer? And also, isn't it reasonable that the act should have a full range of remedies as were provided in many other acts of this sort?

So for Ms. Furchtgott-Roth—I am sorry if I am mispronouncing your name—you testified that this fairness act is a very radical idea. Now, the provisions that I cited, do you consider those radical provisions to enforce a law that is so basic?

Ms. FURCHTGOTT-ROTH. The idea of equal pay for equal work has been around for decades. That is not radical, and we do currently enforce this law that is the EEOC, and there is the Office of Federal Contract Compliance before whom complaints can be made.

What we are talking about is guidelines for different job categories. So section 7 says the Secretary of Labor—

Ms. HIRONO. Excuse me. You know, I was talking about the three specific areas of the law that lead to enhanced enforcement of EPA, and my question to you is whether those provisions are to-

tally radical. I think you said as to the whole proposal, the Paycheck Fairness Act, that it is the most radical idea in American labor law today. Those three provisions and areas that I cited that lead to better enforcement of EPA, my question to you is whether you consider those provisions the most radical in labor law today?

Ms. FURCHTGOTT-ROTH. When I said the most radical provisions in labor law today, I was referring to setting guidelines for different occupations. The punitive damages that would be imposed for discrimination probably are comparable to some other punitive damages provisions in other kinds of law today.

Ms. HIRONO. So you are not specifically talking about the provisions of the Paycheck Fairness Act that I am focusing on when you made that statement?

Ms. FURCHTGOTT-ROTH. I was talking about the guidelines for setting wages for different occupations.

Ms. HIRONO. Thank you.

I would like to ask any of the other testifiers if they would like to comment on my question. Ms. Hill?

Ms. BOUSHEY. I would like to comment on the idea that employees should be able to share their salary information without retaliation. I think Ms. Farmer here is a perfect—I mean, her case study is a perfect example of just how important that is.

We also know, of course, that women who work in unions, oftentimes the gender pay gap is smaller. A big piece of that is because unions create an opportunity for salary information to be distributed and that information to be processed among the staff of the union. So I think there is evidence that that really can go far in helping employees understand the pay scales within their organization and then have the tools that they need to fight discrimination if they see it. So I think that that is a critical component, and it certainly isn't a radical one.

Ms. HILL. I would simply second that, that the act that we are looking at today is not radical at all. It is simply making these laws more workable and giving us the same tools that we use for other forms of civil rights.

Ms. HIRONO. Thank you.

Thank you, Mr. Chair.

Mr. KILDEE. The gentlelady from New Hampshire Ms. Shea-Porter.

Ms. SHEA-PORTER. Thank you. Thank you all for being here.

You know, this kind of discrimination is easily noticed by those who live it and those who observe it in any manner whatsoever. And I have held a series of jobs—I put myself through college, and I recognize it when I see it. And so I am a little astounded that not everybody on this panel is seeing what we are talking about here.

And so I would like to start with you, Ms. Furchtgott-Roth, and I apologize if I say your name wrong. Mine is hyphenated also. But you said when people find out they are being paid the same, they leave. You just said that. And then we have an act here that would require—or allow people to share their pay with other employees. Do you agree they should be allowed to share their pay amounts with other employees?



Ms. FURCHTGOTT-ROTH. I think if an individual wants to disclose his or her pay to someone else, to a fellow, you know, colleague, I think that is fine. I don't think employers should be required to disclose everyone's pay. I think there are a lot of people who wouldn't want their pay disclosed for a whole number of reasons.

Ms. SHEA-PORTER. Okay. But they should be allowed to without any retaliation, like apparently Wal-Mart did with Ms. Farmer? So Wal-Mart should not be allowed to penalize somebody if they wish to choose and tell people how much they earn, right? So you would agree with this part of the act?

Ms. FURCHTGOTT-ROTH. I think that if one person wants to tell a coworker how much he or she earns, that is fine. But an employer shouldn't be required to make everyone's salaries public.

Ms. SHEA-PORTER. Okay. How will they know? And I am not saying it should be that way, but what I am saying is that when people go into work, we know it. We know it in the field of social work because we see people who are receiving low wages and are working very hard.

And I would also like to comment at this point about your testimony, your written testimony, because you are talking about pleasant jobs. Women choose more pleasant jobs such as teaching. And I would suggest that you have probably never been in a fifth grade or seventh grade class if you think that is pleasant.

Ms. FURCHTGOTT-ROTH. I try to avoid volunteering at my children's school.

Ms. SHEA-PORTER. And the other part of this—and all the way through the testimony, you use words like “dirty jobs.” and I keep thinking about the women I knew who were janitors at night and who worked in the day at the lunch room. And I remember the President praising some woman who was trying to explain how hard it was to work three jobs. She wasn't working three jobs because she wanted to prove that she was a hard worker, she was working three jobs because she had to, because she was stuck in low-paying jobs. So I think it bothered me to keep reading the words “pleasant” and then choosing time off and whatever, just the whole tone of the testimony.

But getting back to what I am trying to say here, what I am concerned about is that if you don't know what you are being paid and what your coworker is being paid, you can't be certain that you are being discriminated against. And what would you propose in lieu of this to protect women who are being discriminated against?

Ms. FURCHTGOTT-ROTH. Well, I think the right to privacy is very important, and I think a lot of people would be uncomfortable with their salaries being disclosed. And there are provisions in the law right now—and I am not a labor lawyer. I am an economist. There are provisions in the law right now for evaluating discriminatory claims, and if those need to be strengthened, you know, then that is a matter of Congress to strengthen. And I don't have any suggestions for remedies in the field of labor law that would do that.

Ms. SHEA-PORTER. And that basically is always the problem when we look at these issues: You don't have remedies, but we know that something is wrong. And if you can't really even measure it because you don't have a way of looking at it, then—you know, I guess I was disappointed by some of the quizzing that

some of the other panelists received because it is difficult to gather the data because of these blocks to information. I think it is critical that we get there and find out.

I just wanted to say one comment. First of all, thank you. I certainly have seen this on every level, and I think that women who choose these jobs are choosing it for the good of our culture, the good of our families, the good of our society, and that they have a right and businesses have a responsibility to compensate them properly for it.

And I wanted to say to you, Ms. Farmer, that I appreciate you bringing this to the attention. I realize this has been extremely difficult and has been prolonged, but this is the only way that women will get the—not just the dignity, but also the wages they need to feed themselves, feed their families, and to continue to progress along with men. So I thank you all for your testimony.

Mr. KILDEE. The gentleman from New Jersey Mr. Payne.

Mr. PAYNE. Thank you very much. We have a fair system here. You see the man is last, and we don't get any preferences.

Let me just ask a question to Ms. Farmer. In your testimony you stated that when you were promoted, you knew what the other folks were making; the men were making more. Did you raise a concern about this, and what did they say? I know you mentioned in your testimony about in and out.

Ms. FARMER. When I was promoted?

Mr. PAYNE. Yeah. And you saw that the pay was less. Did you raise the issue? And what did—

Ms. FARMER. Absolutely. When I would train these people, men, and they had no qualms in telling me, I am making \$30,000, and then I make \$28,000, I went directly to my, you know, district manager a little later after I got the position and said, you know, I really don't think this is right. We really need to boost me up a little bit. And he just was like, "Right, we will think about it." "okay, thanks."

Mr. PAYNE. Well, so in some instances I heard in a study that women generally don't speak up, and that is sort of a problem in general. And I guess if women speak up, they will say, well, you know, she is kind of pushy for a woman. So once again, you get caught up in the whole gender trap, right?

Ms. FARMER. Somewhat. My parents always pushed me with if you believe in something, you do it, and you always tell the truth.

Mr. PAYNE. Actually, you know, women live longer than men, so maybe they work longer than men. If you have a continually lower salary, I guess, as life expectancy goes on, then women fall further behind. I mean, you know, across the board, everybody gets 3 percent. Well, if you are, you know, 6 or 7 percent less than the other people, then your 3 percent across the board is less, so it is almost—you know, they say, you know, the victory goes to the long distance runner, but the longer women run the further down the gap they get.

I just have a quick question for Dr. Hill, something that has not been raised much, and I guess it is hard enough to get equal pay for equal work, but I have always had a concept about the question of equal pay for work of equal value. Now, that is different. For example, a person writes a book; a clerical person interprets it and

types it up and edits it and corrects everything. In many instances, the transcriber may get just a clerical salary, but the book becomes, you know, a top seller, and the author and this ghost writer makes millions of dollars, but the people who are as responsible for it being a product that has so much value in many instances are not paid, in my opinion, for equal pay for work of equal value. Now, I am not saying they should get what the author gets, but has any tinkering been done about any jobs and categories and where women are and whether the pay categories seem to be proper in the overall scheme of things?

Ms. HILL. There is one very important study that was done in the State of Minnesota where they looked at different job categories and found that, in fact, jobs with similar skills, similar kinds of experience and similar kinds of attributes were not being compensated fairly when you looked at it in terms of gender, and they were able to and did make some changes, so the public sector has certainly—there have been some improvements made. I will say some of the best employers are already doing these things. I think some of the best employers are looking at measures outside of productivity. So often productivity is measured simply in terms of hours at the office. That is one measure. The person who is working 80-hour workdays may be your most productive worker. He or she may not be. The person who is doing a very—who is maybe working more efficiently may be adding more who is working a 40-hour workweek. So I think that some of the best employers are already experimenting and looking at how to best think about productivity and to compensate people fairly.

Mr. PAYNE. I know that my time is expiring.

If you take the medical profession—hospitals, for example—you know, the people who have to mop the floor and keep infection rates down are very poorly paid, usually not even organized in labor unions. The LPNs, who really are doing what the RNs did before or even what the MDs did—of course, I am not knocking doctors, but they are sort of a vanishing person—you know, it is hard to see the doctor—but the LPNs and the RNs are not compensated in life saving jobs, especially LPNs, and so I do think that there is sort of a disparity between the equal pay for work of equal value.

Thank you, Mr. Chairman.

Mr. KILDEE [presiding]. The gentlelady from New York, Ms. Clarke.

Ms. CLARKE. Thank you very much, Mr. Chairman.

It is very stimulating testimony here today, and I wanted to talk about the fact that we recognize that equal pay is a compelling issue for our civil society in the 21st century. A lot of what my colleagues have stated, you know, remains a huge issue, and I wanted to sort of take the conversation in another dimension.

Many of the families that we are talking about are headed by women of color, and women of color face an even larger wage gap than their white female counterparts. Tragically, white women earn 77 cents for every dollar a white man makes. African American women earn 67 cents for every dollar a white man makes, and Hispanic women earn almost 58 cents for every dollar earned by a white man. Unfortunately, educational attainment does not guarantee the wage gap will disappear. According to the 1999 Census

Bureau report, African American women with bachelor degrees make only \$1,545 per year more than white males who have only completed a high school education. So, as we go through this conversation today, I want to talk about the dimensions here and what this legislation can mean across the board.

For women of color, educational success does not bear the economic fruits that it has for their white female counterparts or folks in general. In your opinion, why is this, and what can be done to address this issue?

I put it to the panel.

Ms. HILL. I will just begin by saying I think you are absolutely right, and thank you for bringing that dimension to our attention.

In our particular study, we had a limited sample size, and so we were not able to make definitive statements on the basis of race and ethnicity. However, I think that such a study would be a very valuable thing to do, and if additional resources are put into collecting data so we over sample, then we will be able to say more and be able to talk about more dimensions of this problem, which I think you are very right to suggest there very likely are very significant differences.

Ms. BOUSHEY. To follow on what Dr. Hill said, I know data is incredibly important in this issue if you want to look at racial and ethnic minorities, and I know there are a number of issues that Congress is dealing with this year on providing sufficient funding for national surveys that allow us to study that, so that is important to this issue.

I think you are right to point out that women of color continue to earn less relative to white women and that education is certainly not the only route out. I think a lot of the elements of the Paycheck Fairness Act really could help to bridge some of that gap because it would make it easier. It would make that information more accessible to women so that they could pursue those claims when they had them and take them to court as Ms. Farmer is doing.

I think it is also worth noting—and I believe it was Mr. Payne who noted it—the fact that women of color are making 67 cents on the dollar, and you know, we economists up here talked about all of the different adjudicating factors and education and all of that, but at the end of the day, that gap remains, and that explains why African American women continue to be more likely to be living in poverty and their children do, and so this is a pressing issue above and beyond many of those mitigating factors of education and experience.

Ms. FURCHTGOTT-ROTH. This is a very serious problem, and we have to realize that the average rate of 67 cents on the dollar is comparing all African American women with all of our white males, and what is important is looking at like for like and adjusting for education and also adjusting for jobs, and we can figure out what true discrimination is if we take, say, an African American woman in the same job with the same experience and education as a white man and see the differences in pay, and that is illegal to pay those two people differently.

But the problem with education—and education is a big factor in this. It is not just in college; it starts way back in elementary and secondary school where a lot of African American children are put

in these schools that are of lower quality. They are not able to escape from those schools. They are trapped in these schools because their parents cannot afford to send them to private schools or they cannot move to the suburbs, and we need to have more school choice. We need to give their parents an opportunity to get them out of these low performing schools. We have had a lot of successful experiments with some charter schools, and I think that the 67 cents on the dollar is just a reminder to us that we need to be starting with elementary schools and secondary schools and give all of these kids opportunities early on in their lives so they have the same opportunities for school choice as white kids.

Ms. CLARKE. With all due respect, because my time is winding down, the statistics are talking about women who have attained their degrees compared with men who have just completed high school—that is the disparity—and it is very stark. So, with all due respect, I understand where you are coming from. I would like you to take a look at where I am coming from.

Thank you very much, Mr. Chair.

Mr. KILDEE. The gentleman from Maryland, Mr. Sarbanes.

We have a series of votes on in the House, so we will try to wind up soon.

Mr. SARBANES. Thank you, Mr. Chairman.

I am glad we are having the hearing today. It is an important issue. I think there is much that can be done legislatively to strengthen what is out on the books right now and improve that so that we can combat the kind of discrimination that we are talking about today.

One of the arguments that will get made always in opposition to the kind of action that we are looking for is that it, you know, puts some undue burden on business, that government should not be legislating what happens inside the business community, inside the free market, et cetera.

I was curious—and Dr. Hill, maybe you can take a stab at this—as to what are some of the best practices within the business community that address this issue that demonstrate that when businesses on their own act in a responsible way or maybe in response to this kind of legislation that in fact it leads to improved morale and it leads to improved productivity, et cetera, to demonstrate that, if we push hard on this front, it is not simply about doing the right thing for individual women who are suffering from this pay disparity, but it is actually going to improve things for the society and for the strength of our economy and lift us up across the board.

Ms. HILL. Thank you. I think that is an excellent point.

When we allow women to use their skills that they have been gaining—we have made enormous improvements and gains in educational achievement both among white women and also among African American and Hispanic women. We have made these enormous gains, and we need to be able to fully allow these women to participate in the workforce and to come back into the workforce when they do leave sometimes. If some of them do and when some of them do leave, allow them to come back into the workforce and use their talents.

You asked for an example. I thought of Best Buy as an interesting example. Most recently, they have moved to a system where

my understanding is that it is completely work flexible; you work as much and wherever you would like to work, and they have found that this program has improved their sales and has improved morale and has improved their productivity. So allowing workplace flexibility is not just a benefit for the families, but it has also proven to be a benefit for the businesses.

Mr. SARBANES. I would venture to say that businesses that are very enlightened in this area both with respect to pay equity and with respect to work flexibility are benefiting by accessing a workforce that otherwise is being left on the table, and there are so many talented people out there and talented women out there who are looking for the respect that comes from the compensation issues we are talking about but also who are looking for the work flexibility where, if you are a business that is prepared to accommodate that, the benefits are going to be huge to you.

Does anybody else want to address the question?

Ms. BOUSHEY. If I could just comment for a moment on the productivity and turnover issue and a couple of other things.

I think it is true that firms that tend to have more family friendly policies tend to have lower turnover, and turnover can cost workers thousands of dollars a year. Even at low wage firms in retail or sectors of the labor market, where we may not think of workers as having such important on-the-job skills, there is still an incredibly high cost of turnover, so lowering those costs are an important element for increasing productivity, and family friendly policies that increase flexibility and reduce discrimination certainly help to reduce turnover.

A second issue is, particularly in the case of maternal leave, giving women pregnancy or maternity leave significantly increases the chance that a woman will go back to work at her same job within the 3- to 6-month period of her leave, and then over time she typically stays longer at that job compared to women who do not have leave. It is even more the case if she takes paid leave. That is a significant way of reducing turnover, is offering paid leave, which then of course does have these positive productivity effects within the firm.

Ms. FURCHTGOTT-ROTH. One example of a practice used by a local company, Booz Allen Hamilton, is they have an outreach program for women who want to take time off after they have children where they keep in touch with them and invite them back for seminars to keep their training up, so that when they are ready to go back to work they are ready to slot in at a higher level of training than they would have been otherwise, and this is also found at other firms, too. It has been documented in a number of publications.

I think that, in the basis of your question, you assumed in the question that pay disparity exists. I think this study from the AAUW does not prove that. There are a lot of studies that show that there is insignificant pay disparity between men and women when like jobs are compared with like jobs. Work experience and education accumulated with like hours of work is particularly important. So I think that you should not base any legislation on a premise that pay disparity exists, because it has not yet been proved.

Mr. SARBANES. The perception is certainly there, and I think the reality underlies it. I think where there is smoke there is fire, and we need to do what we can to put that fire out.

Thank you, Mr. Chairman.

Mr. KILDEE. Thank you.

The Chair recognizes the ranking member, Mr. Kline.

Mr. KLINE. Thank you, Mr. Chairman.

I thank the witnesses.

I would disagree with my colleague that we cannot always chase smoke to find fire. We need to get to the core of the matter, and that is part of what this hearing was to do today so we could assess different views of the facts and different perceptions.

One of the things we have heard a lot about today is the case of one of our witnesses—one employee dealing with one employer—and that matter, of course, is in court, and we do not have the results of that court action. So it is anecdotal, and it is a touching story, and certainly the allegations that we were not getting equal pay for exactly equal work would be illegal; but again that matter is in court and that determination has not been made.

Second, we heard a number of discussions today about how the law needs to be changed to permit employees to discuss salary information or at least that is with other employees; at least that is what it sounded like, and I just wanted to point out for the record that the National Labor Relations Board has held under the National Labor Relations Act that an employer may not adopt a pay policy that prohibits employees from discussing their salaries in terms of employment. Pay policies that prohibit employees from discussing wages have been held to be a violation of their Section VII rights under the NLRA and have been found to be unlawful. So, again, under law, you are not prohibited from discussing it with each other. It is a different question whether or not the employer must provide all of that information to their employees.

Again, I want to thank the witnesses. It was very interesting and very helpful, and I yield back.

Mr. KILDEE. Thank you very much, Mr. Kline.

I, too, want to thank all of the witnesses for their testimony today, and in addition to the witnesses' supporting this act today, there are millions of other men and women out there in the country, including my wife and my daughter and my three granddaughters, but also my two sons and my three grandsons. They may not be statisticians, but they do live in the real world, and they are seekers after justice, and I want to again thank all of the witnesses.

As previously ordered, members will have 14 days to submit additional materials for the hearing record. Any member who wishes to submit follow-up questions in writing to the witnesses should coordinate with the majority staff within 14 days.

Without objection, this hearing is adjourned.

[The prepared statement of Business and Professional Women/USA and Business and Professional Women's Foundation follows:]

**Prepared Statement of Business and Professional Women/USA and  
Business and Professional Women's Foundation**

Chairman Miller, Ranking Member McKeon and members of the Committee, thank you for this opportunity to provide written testimony on wage inequity and its impact on workingwomen, their families, and employers.

Business and Professional Women/USA (BPW/USA) and Business and Professional Women's Foundation have a unique perspective on this issue in that we understand that working women are both employees and employers. Legislative solutions to workplace inequity must provide tools that support both the employee and employer, to level the playing field and provide opportunities that dismantle the systemic barriers that remain. We bring this perspective to our testimony today.

*Background of Organizations*

Founded in 1919, BPW/USA is a multi-generational, nonpartisan membership organization with a mission to achieve equity for all women in the workplace through advocacy, education, and information. Established as the first organization to focus on issues of workingwomen, BPW/USA is historically a leader in grassroots activism, policy influence and advocacy for millions of workingwomen. BPW/USA's legislative platform focuses on the issues of workplace equity and work-life effectiveness. Pay equity undeniably falls within this focus making fair pay one of our top policy priorities. BPW/USA has long fought for equal pay as our members were witness to President Kennedy signing the Equal Pay Act into law. Today, the wage gap continues to be one of the greatest economic factors that affect workingwomen and families. Therefore BPW/USA remains committed to the pay equity issue by being the leading advocate to move legislation forward and educator for working women, and policy makers.

In 1956, Business and Professional Women's (BPW) Foundation became the first research and education institution of national scope solely dedicated to issues that affect workingwomen. BPW Foundation utilizes the avenues of research, education, policy and knowledge development to achieve its mission: to empower workingwomen to achieve their full potential and to partner with employers to build successful workplaces. BPW Foundation encourages cross-sector collaboration between employers, research organizations, workingwomen and policymakers. This collaboration is based on the understanding that each sector plays an important role in creating successful workplaces for workingwomen and their employers by virtue of their ability to identify and act collectively upon common ground areas ready for change.

*Women in the Workforce*

Workingwomen have made great strides in establishing themselves as an integral force in the American economy in the last five decades. The growing participation of women in the paid labor force was a critical factor in the economic growth of the United States during this time. By 2006, women comprised 46 percent of the labor force increasing from 29 percent in 1956 and 36 percent in 1976i. By 2002, women-owned employer firms employed 7.1 million workers and paid \$173.7 billion in annual payrolls and accounted for 6.5 percent of total employment in U.S.ii. Women comprised 46.3 percent of wealthiest Americans, by 2001, with a combined net worth of \$5.8 trillioniii.

The importance of workingwomen to the U.S. economy and to their families' incomes can not be underestimated. According to the U.S. Census Bureau the wages of men (under age 44) have undergone a steady decline. At the same time the real median income of families has risen; economists attribute this rise to the growth in women's labor force participation.iv Typically, women in dual-income households provide approximately one-third of the family income. Two-thirds of all families with children have all available parents at work; among prime-age women (ages 25 to 45), 75 percent of women and 71 percent of mothers are in the labor force.v

Additionally, workingwomen's continuing readiness to take on primary responsibility for addressing critical societal needs such as care giving for children, elders or ill family members or acting as volunteer leaders has fueled a shadow economy of unpaid work that contributes significantly to the economic and social well-being of communities and families. One estimate shows unpaid care giving (by women and men) for older or ill family members, alone, provides \$257 billion in services to the nationvi.

Over the past 50 years, women in large numbers realized the individual accomplishments demanded of them at the start of the movement to achieve equity in the workplace: they received college degrees in ever increasing numbers, started their own businesses, made concerted efforts to move into nontraditional fields, mentored and were mentoredvii.



Women are outperforming men at almost every educational level with 88 percent of women in the 25-29 age group completing high school compared to 85 percent of men; women also now make up 58 percent of U.S. college students compared to 43 percent in 1970. Women have earned more bachelor's degrees than men since 1982 and more master's degrees since 1986. Within four years, it is estimated that women undergraduate and graduate students will outnumber men by 10.2 million to 7.4 million. Women are also more likely to have higher grades than men. viii But still, women with graduate degrees earn only slightly more than men with only a high school diploma (\$41,995 compared to \$40,822).ix

Yet with all of this progress the wage gap persists in the 21st Century.

#### *The Persisting Wage Gap*

In a time when women make up nearly half the workforce, many think that the issue of wage inequity no longer exists. However, a recent deluge of corporate law suits disproves this view. A number of corporations such as Goodyear Tire, Smith Barney, Merrill Lynch, Wal-Mart and Boeing have all faced sex discrimination lawsuits in recent years brought on by female employees asserting that their employers paid them less than men or did not promote them as quickly. These pay discrimination law suits brought media attention to an issue that continues to impact the paychecks of many workingwomen.

The 2006 Census Bureau estimates that full time, year-round female workers make 77 cents for every dollar a male earns. For minority women this statistic worsens as African-American women make 66 cents, Latinas make 55 cents and Asian-American women make 80 cents. After stalling in the 1980's, at the current rate of change, it will be another 50 years before women achieve equal pay.

Many women are aware of the wage gap and the enormous impact it will have on their financial lives; unfortunately some are not. According to economist Evelyn Murphy, over a working lifetime, the gender wage disparity will cost a woman between \$700,000 and \$2 million in lost wages, dependent upon her education level. Women know that the wage gap exists due to lost promotions and chronic discrimination. Economists believe that between 10 percent and 30 percent of the wage gap is attributable to discrimination.x

Pay inequity is not a women's issue, but a family issue. Men have an equal investment in ending the wage gap for the sake of total household income and retirement savings. Today the majority of American families depend on the earnings of both parents to financially survive so rewarding equal pay for equal work would result in increased family incomes. As a result of the wage gap, women stand to lose significant amounts of money that could be used for their families and retirementxi. Lower pension and social security benefits that result from unequal pay cause this gap to follow women and their families throughout their lives.

#### *The Power of Grassroots*

The goal of BPW/USA is to empower workingwomen to be strong advocates for themselves, in their workplaces, and on behalf of legislation like the Paycheck Fairness Act. Annually, BPW/USA members recognize Equal Pay Day in April by hosting events and activities across the nation to raise awareness of the wage gap. BPW/USA believes in the three pronged approach to addressing the issue of pay equity. This entails passing legislation to enact tougher laws, holding businesses accountable for unfair pay practices, and providing women with the knowledge and tools to empower themselves. BPW/USA educates women about the wage gap, what to do if they are being paid unfairly, and how to negotiate a better salary. While BPW/USA is reaching thousands of women through its signature conferences, grassroots programs and activities, there needs to be government supported programs and trainings educating a broad audience of women about the wage gap, and providing them with needed skills training.

#### *Change in the Workplace*

As a neutral convener and independent research and education institution, BPW Foundation plays a unique and critical role in identifying opportunities for change and in building collaborative solutions.

In the 21st century, workplaces are undergoing constant transformation. The forces reshaping America's workplaces contain a compelling opportunity for innovation, adaptation and change. Such change can enable the dismantling of the remaining barriers that block women's full and equitable participation in the workforce. xii

An emerging workplace trend is the increasing realization that forces shaping options for workingwomen are, in fact, forces affecting everyone in the workplace including women, men, caregivers, entry-level workers, impending retirees, second careerists, people with disabilities and employers. Public policy, aimed at ending the

wage gap, has the power to offer solutions and tools that can positively reshape the workplace for all employees and expand the labor pool for all employers<sup>xiii</sup>.

Research conducted by BPW Foundation at its annual National Employer Summits has revealed that the causes of workplace dissatisfaction are often the same issues that create potential inequity in the workplace. Workplaces and workforces are wrestling with the changing realities of employees' lives and expectations, the demographic transformation of the labor force, the impacts of technology on work design, and the growth of global workplaces<sup>xiv</sup>. In the midst of this, employers striving to create diverse, equitable workplaces are faced with dismantling the systemic and cultural barriers that continue to block women's full and equitable participation in the workplace. Solutions to remove the structural and cultural barriers that stymie women's participation in the workplace necessitate the collaboration of policy makers, employers and workingwomen and requires a combination of public policy and voluntary practice-based solutions<sup>xv</sup>.

#### *The Need for Public Policy to Address Pay Inequity*

Ideally closing the wage gap should not occur as a result of legislative action, but because employers proactively pay their employees fairly. Unfortunately, many employers fall behind in monitoring their pay scales adequately, which is why Congress stepped in forty years ago to pass the Equal Pay Act.

The Equal Pay Act was passed to help remedy the chronic employment discrimination taking place in the private industry. Lawmakers in the 1960's knew that a law must be in place to bring fairness to a marketplace that was failing its workingwomen. While women have been able to take charge of workplace biases and discrimination by holding businesses accountable for their pay practices by filing under the Equal Pay Act, there are limitations to this law which have hampered progress.

The marketplace alone cannot prevent pay discrimination, giving the government a significant role in ensuring fair workplace practices. Previous anti-discrimination laws like the Equal Pay Act, Civil Rights Act, Americans with Disabilities Act and Pregnancy Discrimination Act have each played a role in ensuring that people are treated fairly in the workplace. Congress is now in a position to take a proactive role in continuing the advancement women have made in the workplace and in ensuring that women are getting the paychecks and promotions they have earned through the Paycheck Fairness Act.

This legislation addresses some of the remaining systemic barriers to women being paid fairly and provides employees and employers with the tools and skills to deal with them. Provisions within the Paycheck Fairness Act address two important ingredients to closing the wage gap. These include providing women with negotiation skills and avenues of redress when discrimination occurs, which support working women as they deal with the structural inequities and biases within many workplaces. The bill also offers some support to employers. Rather than putting the onus on early adopters of equitable work practices, the bill would spread the work among all firms by allowing employers equal access to guidelines developed by the Department of Labor, and by utilizing government researchers to gather and pool employer data on wages to establish benchmarks and track progress. It also provides the opportunity for employers to share their knowledge through a national summit, about the transformation of their workplace practices.

The Paycheck Fairness Act would also educate a broad audience of women by establishing a competitive grants program to develop training for women and girls on compensation negotiations, and requiring the Department of Labor to reinstate equal pay activities and investigatory enforcement tools for cases of gender discrimination. Women who have better negotiation skills increase their chances of being paid and promoted fairly. However, they cannot receive this needed training without the passage of the Paycheck Fairness Act. The support of the Department of Labor will allow many working women to be exposed to strengthening their skills when negotiating salary for a new position or lobbying for a promotion.

The Paycheck Fairness Act addresses many of these limitations, clarifies key definitions that have limited the court's willingness to intercede in unfair practices and provides workingwomen, researchers, and engaged employers with the tools and research they need to make and measure progress.

#### *Suggestions for Paycheck Fairness Act*

To further strengthen the legislation and the ability of employees and employers to create win-win solutions in the workplace, we suggest the following:

- The awards program focus on progress rather than effort. Existing awards programs that highlight employers of choice are coming under greater scrutiny with critics pointing out that these programs often give applicants a skewed vision of

what is actually available in the workplace. Often programs or policies may exist that go unused by employees because of perceived cultural or systemic biases within firms. It is important that any recognition program focus on quantitative results in changing wage inequities and not simply on effort expended.

- Incentives should be offered to employers to help offset costs for reviewing and transforming their human resource practices.

- As partners in this change process, employers should be actively engaged in discussions about wage equity and workplace practices and the supports they need to create successful workplaces. The summit provision within the legislation is a good start. We encourage those developing legislation to engage more employers within the current development process to proactively address concerns and cost issues.

### Conclusion

Solving the wage gap will require women to be proactive about their negotiation skills, the passage of effective legislation and the realization by businesses that paying women fairly has benefits to the bottom line. For the sake of our daughters, it is time for American women to stand together and create positive change not only for ourselves, but for the financial future of our families.

### ENDNOTES

<sup>i</sup> “The New Math of Unemployment,” Time Magazine, November 1976.

<sup>ii</sup> “Women in Business: A Demographic Review of Women’s Business Ownership,” Office of Advocacy, Small Business Administration, 2006

<sup>iii</sup> “Personal Wealth, 2001,” Statistics of Income Division, Internal Revenue Service, Barry W. Johnson and Brian G. Raub, 2005.

<sup>iv</sup> Society for Human Resource Management, 2006. [www.shrm.org/trends/visions/3issue2006/0306b.asp](http://www.shrm.org/trends/visions/3issue2006/0306b.asp)

<sup>v</sup> Equal Employment Opportunity Commission Hearing, Heather Bourshey, Center for Economic and Policy Research, April 17, 2007.

<sup>vi</sup> Expenditure Data from HCFA, Office of the Actuary, Levit K. et al., Health Affairs, 2002.

<sup>vii</sup> Forces Shaping 21st Century Workplaces and Workforces, BPW Foundation, 2006.

<sup>viii</sup> Society for Human Resource Management, 2006. [www.shrm.org/trends/visions/3issue2006/0306b.asp](http://www.shrm.org/trends/visions/3issue2006/0306b.asp)

<sup>ix</sup> Institute for Women’s Policy Research, 2004.

<sup>x</sup> Society for Human Resource Management, 2006. [www.shrm.org/trends/visions/3issue2006/0306b.asp](http://www.shrm.org/trends/visions/3issue2006/0306b.asp)

<sup>xi</sup> The State of Work-Life Effectiveness, BPW Foundation, June 2005.

<sup>xii</sup> Forces Shaping 21st Century Workplaces and Workforces, BPW Foundation, 2006

<sup>xiii</sup> 2006 National Employer Summit Report, BPW Foundation, 2007.

<sup>xiv</sup> Resources and Policy Changes Needed to Create Successful Workplaces, BPW Foundation, April 2006.

<sup>xv</sup> 2006 National Employer Summit Report, BPW Foundation, 2007.

[Whereupon, at 11:55 p.m., the committee was adjourned.]

